

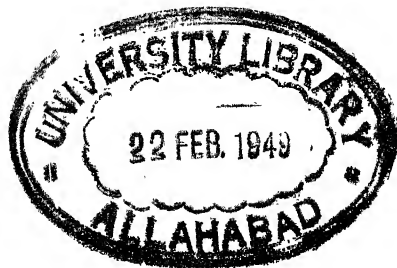
INTERNATIONAL LABOUR OFFICE

CONSTITUTIONAL PROVISIONS

CONCERNING

SOCIAL AND ECONOMIC POLICY

An International Collection of  
Texts covering 450 Countries  
and other Governmental Units



MONTREAL, 1944





## Foreword

One feature of the International Labour Organisation which distinguishes it from other international organisations is the obligation incumbent on its Members to bring the Recommendations and Conventions adopted by the International Labour Conference before the national authorities which are competent to give effect to them by legislation or other action. There is thus a direct link between the International Labour Conference and the authorities in each country which under the national constitution have the power to enact legislation. Moreover, these authorities have a vital role in the functioning of the International Labour Organisation, since it is their decision which determines whether a particular Convention shall be ratified and thereby become a binding international agreement.

This feature of the International Labour Organisation explains why the I.L.O. has a special interest in the constitutional machinery of Member States, and not only, or indeed principally, in their machinery, but also in the provisions which national constitutions may contain concerning social and economic matters. For instance, the definitions of the social and economic subjects which are allotted in federal constitutions to federal or provincial competence have a direct bearing on the possibility of the ratification of international labour Conventions, and the Governing Body has on a number of occasions asked the Office to undertake studies in this field. Some of these studies, of a limited character, have from time to time been published in the *International Labour Review*, and collections of documentary material, more extensive in character, have in certain instances been supplied, on their request, to Governments which were undertaking the amendment or revision of their constitutions.

There are two main reasons which suggest that this is an appropriate time for the Office to publish a collection of constitutional texts dealing with social and economic questions. The first is that as a result of the war constitutional revision is likely, and indeed certain, to be undertaken in many countries as soon as hostilities have ceased. The second is that the New York-Washington Conference of the International Labour Organisation expressed the desire that the Organisation should "be in a position to give authoritative expression to the social objectives confided to it in the rebuilding of a peaceful world upon the basis of 'improved labour standards, economic advancement and social security'". The task of building a peaceful world on those principles will require both national and international action. It cannot be done by any single set of decisions taken at any one time, but will require continuous action by which the objectives once laid down are steadfastly pursued. But in order that those objectives should authoritatively guide national effort, it is clearly desirable that they should figure, whenever an opportunity occurs for their incorporation, in the solemn constitutional instruments under which that national effort will be undertaken.

A collection of texts, therefore, showing how constitution makers have in the past formulated the social and economic principles which should guide their countries' policies would seem likely to be of considerable practical value to the statesmen and draftsmen who are about to engage on drawing up the constitutions of tomorrow.

Such a collection, however, will not provide them with all the relevant material. We cannot construct the future only from the past. Important as the past may be, it is through the present that we approach the future, and when the present is a period of tremendous upheaval in the world's life, such as we have experienced during the last four years, its contribution cannot be ignored. The emergence of the social objective, its definition in the Atlantic Charter, in the Mutual Aid Agreements, in the resolutions of the Food Conference, and in the suggestions for a Social Mandate laid before the New York-Washington Conference of the International Labour Organisation are the symptoms of a new orientation of democratic thinking which will no doubt colour and inspire future constitutions.

The collection of texts has therefore been accompanied by an Introduction indicating some of the objectives which are securing ever wider attention and an increasing volume of agreement, and suggesting some of the considerations which should govern their selection and be borne in mind in their formulation. These indications and suggestions are intended as no more than a preliminary exploration of some of the issues which the drafting of new national constitutions may involve. They do not of course commit the International Labour Organisation, which, it is hoped, will in the near future through the International Labour Conference lay down its policy and programme for post-war action and formulate authoritatively the social and economic principles which its Members are determined to follow.

Meanwhile, the present volume, which has been prepared by Mr. C. Wilfred Jenks, of Gray's Inn, Barrister-at-Law, Legal Adviser of the International Labour Office, will, it is hoped, not only serve an immediate practical purpose, but also prepare the way for further discussion of the subject.

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The following libraries and government services have furnished material for use in the preparation of the volume: Advocates' Library, Montreal; American Russian Institute, Inc., New York; Carnegie Endowment for International Peace, Washington, D.C.; Collège de l'Immaculée Conception, Montreal; Colonial Office Library, London; Columbia University Library, New York; Consulate General of the Netherlands, Montreal; Consulate of Portugal, Montreal; Ecole des Hautes Etudes Commerciales de Montreal; Harvard Law Library, Cambridge, Mass.; High Commissioner for the Commonwealth of Australia, Ottawa; Institute of Pacific Relations, New York; Law Library of McGill University, Montreal; Library of Congress, Washington, D.C.; Library of Parliament, Ottawa; New York Public Library, New York; Redpath Library, McGill University, Montreal.

The publication of this volume would not have been possible without the co-operation of the various services of the Office, including the London, New Delhi and Washington Branch Offices and the correspondents of the Office in a number of countries, and especially in Cuba and Mexico, who have given substantial assistance in the collection of material. More particularly, Miss Marion W. Rankin, editor of the *Legislative Series* of the International Labour Office, has given, largely in her own time, invaluable assistance by tracing and translating texts and has assumed the major responsibility for the preparation of the Bibliography.

E. J. PHELAN.



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# Introduction

The world's law regarding social and economic questions has been formulated in modern times at three main levels: in international obligations and standards; in national constitutions, including the international instruments which have served in lieu thereof for certain areas; and in national laws and regulations. In *The International Labour Code, 1939*, the International Labour Office has published in a systematised form the international obligations and standards evolved during the inter-war period under the auspices of the I.L.O. In the *Legislative Series*, which has been published regularly since 1920 in continuation of the Bulletin issued at Basle from 1902 to 1919 by the International Association for Labour Legislation, it has made conveniently available the texts of the most important laws and regulations affecting labour adopted in the different countries. Hitherto there has been no corresponding collection of the social and economic provisions of national constitutions<sup>1</sup>, and no attempt has been made to measure by assembling the relevant texts the impact of the social and economic preoccupations of modern States upon their constitutional law.

This gap in the legal publications of the I.L.O. reflects the comparative failure of international and constitutional formulations of social and economic principle to influence each other effectively during the inter-war period. The International Labour Code built up by successive sessions of the International Labour Conference became during that period one of the main formative influences upon the development of social legislation in many countries. The development of recognised international standards, evolved by informed discussion by responsible representatives of the interested parties on the basis of texts drafted after a preliminary comparative study of law and practice throughout the world, contributed in no small measure to the clarification of the problems to be dealt with in national laws and regulations. Simultaneously national legislative experiments came to be increasingly regarded as part of a body of common experience from which all should profit and for the pooling of which the I.L.O. was a recognised clearing house. The growth of the practice of formulating social and economic policies in national constitutions has introduced a new element into this situation. Apart from the very general provisions of Article 41 of the Constitution of the International Labour Organisation, no international standards of similar authority have been available as guides for the draftsmen of national constitutions. Nor has any law and practice survey of national constitutional provisions concerning social and economic policy been available to the draftsmen of either national or international instruments. The fruitful process of cross-fertilisation, which has so constantly enriched both inter-

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<sup>1</sup> Constitutional provisions regarding social and economic policy have from time to time been included in *The Legislative Series*, but not in any systematic manner. The International Labour Office made in 1939 an incomplete collection of the texts of such provisions for the information of a Government which was then planning a new constitution, but the collection, out of which the present volume has grown, was never published.

national obligations and standards and national laws and regulations during the last quarter of a century, has accordingly affected only sporadically the national formulations of constitutional principle which have come to be an increasingly important factor in the determination of social and economic policies, and these formulations of constitutional principle have had correspondingly little influence upon international instruments. It would be unfortunate in the extreme if this were to continue to be the position during the period of post-war readjustment.

The tendency to deal in instruments of a constituent character with questions of social and economic policy is being further reinforced by events arising from the war. The distinguishing characteristic of the statements regarding post-war problems made by the leading statesmen of the United Nations has been the emphasis placed upon social objectives and the economic means of attaining them. The attainment of President Roosevelt's four freedoms — of freedom of expression, freedom of worship, freedom from want and freedom from fear — is now recognised as an immediate concern of public policy to an extent for which history affords no parallel. "Common justice and fair play for all", to quote the expressive words of Field Marshal Smuts, are the keynote of current thinking regarding "a better world and a richer life for mankind".<sup>1</sup> There is at last widespread recognition that a stable international order can be built only upon the foundation of the well-being of individual human lives everywhere in the world. Generalissimo Chiang Kai-shek expressed a truth which has become a truism when he declared that "There will be neither peace, nor hope, nor future for any of us unless we honestly aim at political, social and economic justice for all peoples of the world, great and small."<sup>2</sup> Mr. Mackenzie King voiced the same thought in his statement that "The era of freedom will be achieved only as human welfare and social security become the main concern of men and nations. The new order must be a world order. It must be governed by a universal rule of law. It must be based on human rights and not on the rights of property, privilege or position."<sup>3</sup>

Though the attainment of these objectives will depend primarily upon the combination of the fulfilment of such indispensable political conditions as world freedom and world order with the unwavering pursuit of farsighted economic policies designed to promote full employment on the basis of a rising standard of life, especially in the undeveloped parts of the world, it is reasonable to surmise that at an appropriate stage it will be thought desirable to formulate the agreed objectives in legal instruments of a constitutional character.

It is of course undeniable that the presence in or absence from a constitutional text of broad declarations of principle is a very inadequate measure of either the degree of social progress or the measure of individual freedom attained in any particular country. In Britain, to select what has become the classical example, the freedom of the individual is, as Dicey so forcibly explained<sup>4</sup>, based upon the common law and upon the procedural device of the writ of *habeas corpus*, and the development of comprehensive social legislation has not been accompanied by the expression

<sup>1</sup> Address to the Members of the Two Houses of Parliament, London, 21 Oct. 1942.

<sup>2</sup> Generalissimo CHIANG Kai-shek: *Resistance and Reconstruction*, p. 316.

<sup>3</sup> Speech at Toronto, 9 Oct. 1942, *War and Peace Aims*, p. 76, United Nations Information Office.

<sup>4</sup> A. V. DICEY: *The Law of the Constitution*, 8th edition, pp. 179-233.



of any principles of social policy in a constitutional instrument. In France there has been no constitutional formulation of individual rights and social policies since 1848. In the United States the years since 1933 have, save as regards the repeal of the prohibition amendment, left the text of the Federal Constitution unchanged, and in both the United States<sup>1</sup> and Canada the constitutional provisions which bear upon social and economic policy must be read in the light of innumerable judicial decisions which represent successive phases of constitutional evolution. Nor, as the experience of the inter-war period so abundantly shows, does the formulation of constitutional guarantees of individual freedom and progressive social policies afford any assurance of sustained progress. The British method and tradition are applicable, however, only where there has been no break in historical continuity, and in other countries new constitutional arrangements are likely to be expressed in formal instruments of a special character which may be expected to contain important declarations of constitutional principles regarding social and economic policy. There has been a marked tendency in this direction even within the British Commonwealth, as is illustrated by the Irish Constitution of 1937<sup>2</sup>, the Proposed Constitution adopted by the Indian All Parties Conference in 1928<sup>3</sup>, and the 1942 proposed amendments to the Australian Constitution.<sup>4</sup> Nor are such developments without precedent in the British tradition, for Magna Carta was in large measure a constitutional declaration of the social and economic policies of feudal England. Outside the British Commonwealth the tendency has been an almost universal one, though in the United States its principal impact has been upon the State Constitutions.

The present period is likely to be a highly formative one in the history of constitutional development. Periods of world convulsion are apt to produce far-reaching changes in the constitutional arrangements of a large number of countries. It is reasonable to hope that in this respect the present war may prove to be a more permanently significant landmark in the history of world freedom than either the wars preceding the Congress of Vienna or the war of 1914-1918<sup>5</sup>, and to anticipate that the increasingly social emphasis of public policy is likely to be reflected in the national constitutions of the post-war world. When, in pursuance of the pledge contained in the Atlantic Charter, "sovereign rights and self government are restored" to the peoples "who have been forcibly deprived of them", those peoples will no doubt, in many cases, recast their constitutional arrangements in order to meet the requirements of a new era. Some of the proposals for constitutional revision which have already been outlined, such as the Charter of Poland issued by the Polish Government in London on 24 February 1942, appear to contemplate the adoption of new constitutional provisions of a social character.<sup>6</sup> The pending constitutional changes

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<sup>1</sup> See "The Constitutionality of Labour Legislation in the United States of America" by William Gorham RICE, Jr., in *International Labour Review*, Vol. XIV, No. 5, Nov. 1926, pp. 619-639 and 779-802, and "The American Constitution and International Labour Legislation" by David RIESMAN, Jr., in *idem*, Vol. XLIV, No. 2, Aug. 1942, pp. 123-193.

<sup>2</sup> See pp. 79-83 below.

<sup>3</sup> See pp. 501-504 below.

<sup>4</sup> See pp. 610-611 below.

<sup>5</sup> For the constitutional changes of the period following the war of 1914-1918, see Howard Lee MCBAIN and Lindsay ROGERS: *The New Constitutions of Europe*, 1922, and Agnes Headlam MORLEY: *The New Democratic Constitutions of Europe*, 1929.

<sup>6</sup> English translation in *War and Peace Aims*, p. 77, United Nations Information Office.

will not be confined to Europe. Of special significance is the marked additional stimulus which the present war has given to the aspirations for responsible government which have been in process of rapid development in Asia since the last war. Abandoning the principle laid down in the preamble to the Government of India Act, 1919, that successive decisions regarding Indian constitutional development must remain the responsibility of the British Parliament, the British Government has undertaken by the Cripps proposals to accept and implement a constitution framed by an elected Indian constitution-making body.<sup>1</sup> The Queen of the Netherlands has announced that the Constitution of the Kingdom will require revision after the war in order to accord a new status to the Netherlands Indies.<sup>2</sup> Among other indices of the development of a socially minded constitutionalism in the East may be mentioned proposals for a new Constitution published by the Chinese Government in 1937, final action upon which has been postponed owing to the war<sup>3</sup>, and the Sarawak Constitution, 1941<sup>4</sup>, and Bikaner Proclamation of 23 October 1941<sup>5</sup> which may exercise an important influence on future developments in Malaya and Borneo and the Indian States respectively. Where conditions so allow prospective constitutional changes are being actively considered. In Australia the question has been under review by a constitutional convention and a temporary compromise has been proposed.<sup>6</sup> In Canada proposals for extending the powers of the Dominion to control economic and social policy have been made in an unanimous report by a Royal Commission<sup>7</sup>, and a Select Committee of the House of Commons has been appointed to report on any constitutional adjustments necessary to facilitate the attainment of social security. The announcements recently made that new constitutions are to be introduced in Jamaica and Ceylon may point the way to developments in other colonial areas. In Switzerland emergency constitutional adjustments have been made to deal with the social and economic problems arising from the war and proposals for constitutional reform which were pending in 1939 are to be reconsidered after the war. In Latin America normal processes of constitutional change and development have continued during recent years<sup>8</sup>, and will probably continue through the years of world reconstruction. The defeat of fascism will, it may be hoped, be followed by fundamental changes in the political outlook and systems of government of the Axis States and their associates, and there are likely to be constitutional changes in territories hitherto governed by the Axis States as colonies. Both the secular trend of constitutional evolution in the world as a whole, and the current emphasis upon the emergence of the social objective as the principal determinant of public policy, suggest that the new constitutional instruments which we may expect to see framed in such large numbers in all parts of the world will

<sup>1</sup> See pp. 498-499 below.

<sup>2</sup> Broadcast of 30 July 1941: Speech before the Congress of the United States, 6 Aug. 1942; Broadcast of 6 Dec. 1942.

<sup>3</sup> The Chinese Government has recently announced that the question of constitutional revision will receive immediate consideration on the termination of hostilities.

<sup>4</sup> See pp. 442-443 below.

<sup>5</sup> See pp. 508-512 below.

<sup>6</sup> See pp. 610-611 below.

<sup>7</sup> See "The Rowell-Sirois Report — A Canadian Reaffirmation of the Democratic Faith in Social Progress", in *International Labour Review*, Vol. XLII, No. 6, Dec. 1940, pp. 347-376.

<sup>8</sup> During the four years 1939-1942 new constitutions have come into force in Cuba, the Dominican Republic, Nicaragua, Panama, Paraguay and El Salvador, and the Costa Rican, Mexican and Uruguayan Constitutions have been amended.

be inspired to an unprecedented extent by preoccupation with social and economic problems.

These constitutional changes which are in prospect in so many countries will have a vital bearing on the future of the I.L.O. Albert Thomas' conception of the I.L.O. was that "the Organisation in its full and 'living' sense (to use his favourite expression) embraced" the distant institutions of its Members "just as much as its central machinery".<sup>1</sup> The validity of that dynamic view has been confirmed by all subsequent experience. It therefore constitutes the starting point for the further development of the Organisation as an agency of effective international action. The International Labour Organisation cannot be indifferent to the national constitutional arrangements of its Members, for these are an essential part of its own tradition, structure, and machinery. The future of international action regarding social and economic questions will be influenced considerably by the future evolution of constitutional principles and policies regarding such questions and will indeed be inseparable from the future of government under law in each and all of the Members of the Organisation. Freedom of association, freedom of speech and expression (including freedom of the press), and freedom of petition are all indispensable prerequisites of the effective functioning of the International Labour Organisation. More generally, neither the International Labour Organisation nor any new international agencies can be effective instruments unless the constitutional arrangements of their Member States are so designed and developed as to permit effective international action through their instrumentality. The effectiveness of the provisions regarding the submission of conventions and recommendations to national competent authorities, for instance, which are the characteristic feature of the procedure provided for in the Constitution of the I.L.O., will depend in large measure upon the effectiveness of representative institutions in the post-war world. There may be opportunities during the process of constitutional readjustment to remove or relax limitations upon the authority over social and economic questions of federal legislatures, which have frequently constituted an impediment to the development of international social legislation in the past. Provision may be made in constitutional instruments for the association with national decisions regarding social and economic policy of representatives of the industrial organisations which have an established international status under the Constitution of the International Labour Organisation. Among other features of national constitutional arrangements with an essential bearing upon the future development of the International Labour Organisation, as of international institutions generally, may be mentioned provisions and customary rules and practices which govern the ratification of treaties and other international engagements, which permit, restrict or prohibit the delegation of powers to international bodies, or which affect international budgets. Some of these matters involve issues of national constitutional policy of a far-reaching character regarding which it may be difficult, impossible, or even undesirable to attain any international uniformity, but in the limited field of the constitutional formulation of principles of social and economic policy, at least, it may be possible during the period of constitutional experimentation and change following the war for the I.L.O. to perform in relation to national constitu-

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<sup>1</sup>E. J. PHELAN: *Yes and Albert Thomas*, 1936, p. 143.

tional instruments a service similar to that already performed in relation to national laws and regulations. The inter-war experience has quickened our historical sense and has emphasised the truth that political institutions, however completely they may conform to an abstract democratic ideal, cannot hope to survive for any substantial period, still less to prove an effective instrument for the attainment of the four freedoms, unless they are built upon political, economic and social realities in the country concerned, including its traditions and national character. There can therefore be no model constitution valid for all countries or for all periods in the evolution of any one country. But while the structure of institutions must necessarily vary greatly from one country to another, and from one period to another, it is not unreasonable to hope that certain broad principles of social and economic policy, and the basic individual freedoms which the Atlantic Charter so rightly links with freedom from fear and want, can become almost common form provisions of national constitutions. Such a result cannot be achieved, however, by taking as a model for the whole world the constitutional traditions of any one country, but only by attempting a synthesis of the constitutional experience of peoples of widely varying backgrounds. Though this volume is designed primarily to facilitate such a synthesis, it may also be of value if one adopts a less ambitious standpoint. The interplay of diverse and in some respects conflicting traditions has been a fruitful source of human progress in the past, in respect of the development of constitutional instruments as in other spheres, and the architects of the future will be in a position to build better, even in the purely national sphere, if they have available to them a collection of texts which enables them to compare the work of their predecessors in many lands and to select from it whatever can be adapted to the needs of their own time and country.

It is also not improbable that, as has frequently occurred in the past, the constitutional arrangements of areas closely affected by the war which are of international public interest in an especial degree may be formulated in international instruments constituting a part of the post-war settlement. Colonel Oliver Stanley, the British Secretary of State for the Colonies, has indicated in the House of Commons that the British Government would welcome the establishment in certain regions of Commissions designed to "provide effective and permanent machinery for consultation and collaboration so that the States concerned might work together to promote the well-being of the Colonial territories" and "to give to the people of the Colonial territories in the region an opportunity to be associated with its work".<sup>1</sup> His statement follows a variety of suggestions on the subject. Field Marshal Smuts has advocated a system of regional grouping of colonies whereby the ultimate control of general or common policy in certain regions would come under a regional Commission or Council.<sup>2</sup> Lord Hailey has outlined a suggestion which has received influential support that some international authority should be established to promote and supervise the future progress of the peoples of South East Asia.<sup>3</sup> Mr. Wendell Willkie has proposed that these peoples should become

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<sup>1</sup> *Parliamentary Debates, House of Commons*, Official Report, Vol. 391, No. 87, 13 July 1943, columns 142-143.

<sup>2</sup> *Life*, 28 Dec. 1942, p. 14.

<sup>3</sup> The suggestion has since been published in greater detail in *War and Peace in the Pacific* (Institute of Pacific Relations, 1943), pp. 55-58.

wards of the United Nations.<sup>1</sup> Although some of the current suggestions seem to contemplate technical collaboration alone, many of them would appear to involve the adoption of some international instrument or instruments defining the constitutional position of the territories concerned, and similar arrangements may also be necessary for any areas of strategic importance which may be placed under some form of international control. Instruments of this type, such as the Congo Acts, the General Act of Algeciras, the Mandates, the Upper Silesia Convention, and the Tangier, Memel and Alexandretta Statutes, have frequently dealt in detail with economic questions; the social aspects of such questions, though regulated in less detail by most of the instruments adopted hitherto, are likely to claim increasing attention in any such instruments which may be adopted in the future. The function entrusted to the International Labour Organisation by the New York-Washington Conference of 1941 of giving "authoritative expression to the social objectives confided to it, in the rebuilding of a peaceful world upon the basis of 'improved labour standards, economic advancement and social security'" would appear to include a responsibility for focussing attention upon the social factors which should be taken into consideration when any such instruments are framed. The increased emphasis upon social questions which may reasonably be expected to be a feature of future instruments of this type will give a new importance to the relation between such instruments and the work of the International Labour Organisation, and the Organisation may be able to contribute from its experience to the formulation of social clauses for inclusion in such instruments.<sup>2</sup>

When framing future instruments it will be essential to be keenly aware that, as Mr. Eden has reminded us, "the old world . . . was dying even before it was broken in pieces by the hammers of Wotan and Thor" and "none of us can now escape from revolutionary changes even if we would". But in human affairs the legacy of the past is always with us, and while we must build boldly for the future we shall build more wisely if we have adequate knowledge and understanding of past endeavours to implement man's aspirations towards the freedom of the individual and the well-being of society. This is no less true with regard to instruments giving legal expression to social and economic principles than it is in relation to other matters of public policy. It is therefore hoped that the present volume may be of value to those responsible for the framing of future constitutional instruments embodying declarations of social and economic policy.

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The task of rebuilding the constitutional arrangements of so large a number of countries presents an opportunity unlikely to recur for generations and should therefore be undertaken with a clear vision of the social objective which, as too many of the texts included in this volume show, has not been conceded hitherto the central importance which it is now acknowledged to possess. While building upon the traditions and experience of the past the statesmen who frame future

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<sup>1</sup> *New York Herald Tribune*, 22 Nov. 1942, Section X, p. 34.

<sup>2</sup> The International Labour Office co-operated with the League of Nations in framing the provisions of the mandates relating to social policy and was represented from the outset upon the Permanent Mandates Commission of the League which supervised their application.

constitutional instruments will, one may reasonably hope, be inspired primarily by the temper and needs of our own momentous times to which expression has been given by the formulation of the social objective in such existing international texts as the Atlantic Charter, the Declaration of the United Nations, the Mutual Aid Agreements and the suggestions for a social mandate submitted to the New York Conference of the International Labour Organisation in 1941.<sup>1</sup> Further international instruments not yet adopted<sup>2</sup> may, by elaborating the social objective in fuller detail, also suggest valuable lines of approach to those charged with the preparation of future constitutional instruments.

While it would be inappropriate to make in the present volume, the purpose of which is essentially documentary, any definite proposals regarding the provisions which it might be desirable to include in future instruments, this introductory survey of the subject would be incomplete without an indication of some of the topics which might well be dealt with in constitutional instruments in which it is desired to include declarations of social and economic policy.

It is unnecessary to resurvey here the well-travelled ground represented by the classical individual liberties — the heritage bequeathed to us by British constitutionalism and by the American and French revolutions. The reaffirmation of these liberties is certain to be an essential feature of the constitutional instruments of the post-war world.<sup>3</sup> This reaffirmation of old liberties is a matter of direct interest to the International Labour Organisation, one of the essential issues of the present conflict being whether the techniques of social and economic control made necessary by the development of modern technology are to be introduced on the basis of or with utter disregard of human rights and democratic liberties. Sir John Forbes Watson, responding for the Employers' group to President Roosevelt's address to the Conference of the International Labour Organisation, at the White House, on 6 November 1941, described the Organisation as "the international emblem of democracy" and affirmed the determination of all the three groups which constitute it to "stand shoulder to shoulder to defend the rights of free men to associate and speak freely with each other". The Workers' group expressed the same conception in their resolution on the war and peace adopted by the Conference on 5 November, which affirms that it is only the victory of free nations the world over, who are fighting for democracy and for the maintenance of the inalienable rights of man, which can save the world from hopeless chaos, and that by their heroic resistance the free men and women of China, Great Britain, Russia and the Continent of Europe have "laid the foundations for the victory of democracy which can alone guarantee social progress and freedom". Freedom of association is a typical illustration of a classical individual right which is fundamental to the existence of the International Labour Organisation. Freedom of speech and expression, including freedom of the press, is another essential condition of the effective

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<sup>1</sup> *The I.L.O. and Reconstruction*, pp. 97-98.

<sup>2</sup> There have, for instance, been a number of pronouncements, especially by American statesmen, contemplating the formulation of an international bill of rights which would be based in part upon the Bill of Rights contained in the early amendments to the Constitution of the United States but which would also include rights of a social and economic character.

<sup>3</sup> The Allied Military Government of Occupied Territory has already taken certain provisional steps in the matter by introducing a simplified *habeas corpus* procedure in territories controlled by it.

functioning of the Organisation. The right of petition which many constitutions guarantee to individuals has a similar significance for the I.L.O., for the Constitution of the Organisation establishes an international equivalent for this right by entitling industrial associations to make representations to the Governing Body regarding the effective observance of conventions by governments. Freedom from arbitrary arrest and from arbitrary legal process are a *sine qua non* of freedom of association, freedom of speech and expression, and freedom of petition; indeed on several occasions the Governing Body of the International Labour Office has had to consider interferences with the freedom of movement of workers' members of the Governing Body or workers' delegates to conferences convened by the Organisation.

More difficult issues arise in regard to social and economic policies. Future constitutional declarations of social and economic policy are likely to deal with both the social objectives of the modern welfare State and the economic means to be adopted in order to attain those objectives. Both objectives and means are in some degree controversial, but in general there is a much greater degree of agreement in regard to objectives than in regard to means.

Opportunity for suitable employment for all who seek work; good wages and reasonable conditions of work; opportunity to secure adequate food, clothing, housing, and medical care; social security arrangements which, in addition to affording financial protection against the hazards of life in an industrialised society, include preventive and medical services capable of making a positive contribution to building up the vigour and vitality of the masses; reasonable leisure and adequate facilities for recreation and culture; greater equality of occupational opportunity; proper care and training for the young: all these are widely recognised objectives of social policy to the general principle of which the United Nations are already pledged by the Constitution of the International Labour Organisation, the Atlantic Charter, the Mutual Aid Agreements, the Final Act of the United Nations Conference on Food and Agriculture, and other instruments and statements of policy, and which may well be elaborated in fuller detail in further international declarations. These objectives could with advantage find their place in national constitutional instruments.

There appears to be an equally general public acceptance of two further social objectives which have not received the same prominence in recent international instruments and statements of policy but are perhaps even more fundamental in character: the development and diversification of educational facilities in such a manner as to promote equality of educational opportunity irrespective of economic circumstances and with due regard to differing types of aptitude, and the improvement of public health. Better education and better health services are among the outstanding needs of all the undeveloped areas of the world and remain of primary importance in even the most advanced societies.

In regard to the means of attaining the objectives which have been indicated there is much greater diversity of opinion, but it will hardly be contested today that society as a whole, acting through the State, has the ultimate responsibility in regard to all of them. How much should be undertaken directly by the State itself, how much should be undertaken by voluntary organisations acting with the assistance and encouragement of the State, how much should be left to private initiative,

is and will remain a controversial question which will be determined differently in different countries and at different times. There will be widespread agreement that the most untrammelled freedom consistent with the rights of others is so essential an element in human well-being that the State will always be wise to encourage growth from below rather than to endeavour to mould from above. There is much, however, that the State alone can do, and with it must rest the ultimate responsibility for ensuring that the individual has opportunities of social well-being for himself and his dependants which unrestricted freedom can no longer secure for him in a society dependent for its prosperity on mass production and an interdependent world economy. In this perspective free enterprise ranks not as a right or an objective but as a method whereby, in certain sectors of the economy, the importance of which will vary with time and country, the age-long conflict between the claims of individual freedom and initiative and those of social order is most conveniently resolved. In like manner State enterprise is not an objective or an ideal but an alternative method of resolving the same conflict. It follows that social control is a necessary complement of free enterprise and the provision of adequate guarantees for the freedom of the worker and the consumer a necessary complement of State enterprise, and that both are to be judged by their success in achieving a larger synthesis of individual freedom and social order. Constitutional declarations of social and economic policy must therefore, if they are to rise above the level of attempts to give transient expression to the philosophy of a particular revolution or political platform, be characterised by a marked relativity of outlook in regard to the means whereby the objectives which they proclaim are to be attained, but they ought to place squarely upon the State the ultimate responsibility for the adequacy of the means employed.

This ultimate responsibility of the State is of special importance in regard to the provision of opportunities of suitable employment for all who seek work. It is by its success in securing the fullest employment of our resources, human and material, in attaining and maintaining in all countries a stable economy and rising standards of living that our economy will henceforth be judged, especially by a generation which during two world wars has glimpsed the boundless horizons which the future offers to constructive statesmanship.

The measure of agreement which can reasonably be postulated in regard to the means whereby social objectives are to be achieved is not, however, confined to the recognition of the ultimate responsibility of the State for ensuring opportunities of social well-being to all its people.

In the International Labour Organisation there will be general recognition, by the representatives of governments, employers and workers alike, that democratically controlled trade unions have an essential part to play in achieving these objectives. The right to organise democratically without interference by employers and to bargain collectively through representatives of his own choosing are essentials without which, in an industrialised society, the worker is at an impossible disadvantage and the orderly development of satisfactory industrial relations unattainable. In large-scale industry wages and other conditions of work are normally governed by either collective agreement or some form of State regulation, and the method of collective agreement permits of greater flexibility, readier adaptation to changing needs, and more industrial self-government than that of legislative



regulation. Basic standards, the essential character of which is that they are designed to be universal and permanent, are rarely adequately established by collective agreements; such agreements must therefore be regarded as supplementary to and not as a substitute for basic labour legislation, but subject to this limitation they constitute one of the main instruments for implementing in the relations between employer and employee the objectives set forth above. Increasingly in modern times the trade unions, and the corresponding organisations of employers, have been called upon to discharge, in addition to their primary functions, wider responsibilities — to advise in the preparation of social legislation, to participate in its administration, to collaborate in the formulation and execution of economic policies, and to share in the organisation of national defence. The recognition of the right of labour to organise and the right to bargain collectively therefore find their appropriate place in constitutional declarations of policy which might also include some allusion to these developing responsibilities.

The various types of co-operative society have also an important part to play and the principle of co-operation should be given recognition commensurate with their responsibilities and potentialities.

Some of the functions which must be discharged by the State itself are also so widely agreed that they could appropriately be indicated in such declarations.

The rate of technological progress since the industrial revolution has been such that it is no longer reasonable for the worker to expect a skill acquired in early youth to serve as a passport to skilled employment throughout his industrial career. Techniques change quickly and the demand for skills changes with them. There is no reason to suppose that this will cease to be the position in any future which it is necessary to consider. Moreover, as the standard of living rises, the demand for certain goods becomes fickle and the need for great flexibility in the economic structure and a high degree of mobility of labour is thereby accelerated. As the less industrialised countries become more industrialised the development of new skills and of mobility of skills will become one of their primary needs. The State must therefore, 'with such co-operation from voluntary bodies and from industry as may be appropriate, assume the responsibility for the maintenance, as a recognised and permanent feature of the industrial system, of adequate facilities for the acquisition of new skills by large numbers of workers. In order to ensure the success of such arrangements it will be necessary to have closely associated with them both those who can foresee emerging shifts in the skill requirements of industry and workers' representatives whose function it will be to ensure that the retraining facilities are not so used as to prejudice unreasonably the livelihood and living standards of those already possessing the skills newly in demand. The question of training has a broad social as well as an economic significance. Irrespective of changes in the industrial structure, opportunities for promotion in modern industry are often dependent on the possession of technical training which the ordinary worker has frequently not received when he reaches maturity. The provision for adults of adequate facilities for such training will therefore contribute to promoting the satisfaction which men derive from the full employment of their capacities and economic efficiency alike.

The importance of these considerations might well be mentioned in general terms in constitutional declarations of social and economic policy.

The relentless supersession of skills which is characteristic of modern industrialism is paralleled by the ruthless exploitation of natural resources. Adequate measures for the conservation of natural resources of all kinds have therefore become a primary need of our society. Though our heritage of natural resources is rich and varied, and newly discovered processes have greatly increased the interchangeability of apparently dissimilar resources, the danger of exhaustion is an ever present one from which the older facets of our economy — agriculture, forestry, fishing and hunting — have already suffered, and which at our present rate of utilisation of mineral resources may shortly represent an imminent threat to important mining and petroleum areas and the economies based upon them, and to the employment and standards of life which those economies sustain. The effectiveness of conservation policies requires a continuing partnership of successive generations and can therefore be ensured by the State alone. The prevention of soil erosion and the maintenance of the fertility of the soil, reafforestation policy, the protection of game, fowl, fisheries and wild life generally, the economic utilisation of hydrocarbons and ores, all involve under modern conditions a high degree of governmental responsibility.

In order that skill may be able to develop resources on any large scale the provision of adequate capital is indispensable. How far such capital should be furnished by private enterprise, how far by co-operative action, how far by the State, and how far the participation of privately subscribed capital in the development of resources should involve participation in managerial control, are matters of acute controversy. There are, however, a number of aspects of this subject in regard to which there is likely to be sufficiently general agreement to make the inclusion of broad principles in regard thereto in constitutional declarations of social and economic policy appropriate. If private investment is a substantial factor in the economy the State should clearly, through adequate control of the financing of corporations and transactions in securities, ensure the investor reasonable protection against fraud or negligence in the handling of the funds which he has invested. There will also be widespread agreement that the role of the State should include the guidance of investment into socially productive channels, and that special importance attaches to the part which can be played by public investment in countering the oscillations of consumers' demand.

A substantial number of national constitutions will doubtless contain provisions concerning the national ownership or control of key industries, land, and mineral resources, but these are matters in regard to which there will be wide diversity of practice between countries and of opinion in individual countries.

There will be wider agreement concerning public utilities. Both industry and the worker are dependent in a large degree for their economic well-being upon the services rendered by utilities such as the provision of transport, light, and power, and though there is much division of opinion concerning the relative merits of nationalisation, municipal ownership, and other forms of public control of utilities, the principles of the public regulation of rates, and of the formulation of standards of service to be complied with by utilities, are widely recognised.

There is likewise widespread agreement that the attainment of adequate standards of nutrition and of housing will require positive action by the State on a substantial scale. The undertaking by governments to "raise the levels of nutrition

and standards of living "of their peoples" which was contemplated by the United Nations Conference on Food and Agriculture might appropriately be reinforced by the inclusion of similar language in constitutional declarations of social and economic policies. The importance of having adequate policies in regard to housing merits similar mention, especially at a time when large scale rebuilding is likely to take place in many countries. It will be widely agreed that the concern of the State in regard to housing policy can no longer be limited to the prescription of minimum sanitary standards and the construction of low cost housing, important as must be the place of these in any more general policy, but that such a general policy must embrace town and country planning on the broadest scale, the zoning of both urban and rural areas for different types of development, the preservation of rural amenities and avoidance of ribbon development, and the attainment of a balanced distribution of population and of public amenities. Constitutional declarations of social and economic policy might well acknowledge a public responsibility in respect of these matters.

Nutrition and housing have a special importance in the countries where the present standards are lowest. In the less developed countries the attainment of all the social objectives which have been postulated will necessarily be more gradual, the role of the State may well be greater and more direct than in some of the more advanced countries, and other issues which are of declining relative importance in the more advanced countries may tend to dominate the scene. Among the most urgent needs of the less developed countries are the provision of adequate communications, by land, by water and in the air, the provision of adequate supplies of cheap power, and the general development of economic life; constitutional declarations of policy adopted in such countries may well stress the importance of these matters and regard them as a primary responsibility of the State. In some of the more sparsely peopled under-developed countries immigration will be a further key to future development and a constitutional affirmation that it is the policy of the State to foster immigration and settlement under reasonable conditions may be of substantial value. Elsewhere industrialisation will be the main key to future progress and constitutional instruments will doubtless postulate a duty of the State to foster industrial development. Where constitutionalism is a recent growth and the public revenues have only lately been separated from the sovereign's privy purse, provisions requiring the assignment of certain revenues for nation-building services may be of primary importance. Declarations applying to colonial areas will no doubt affirm the principle of the reservation of colonial revenues for colonial purposes and that of the responsibility of the metropolitan power for giving positive assistance in the promotion of the social and economic development of its colonies. In undeveloped areas with large dependent populations further problems assume special importance, notably the protection of native rights in land and the status of native custom and institutions.

Social and economic policy have ceased to be regarded as matters of purely national concern, and the merger between our international and our social thinking becomes more complete as each year passes. There is no more significant feature of the Atlantic Charter than the manner in which it associates "the fullest collaboration between all nations in the economic field" with the attainment of "economic advancement, improved labour standards, and social security". The Mutual Aid

Agreements strike the same note when providing for "agreed action . . . open to participation by all other countries of like mind, directed to the expansion, by appropriate international and domestic measures, of production, employment, and the exchange and consumption of goods, which are the material foundations of the liberty and welfare of all peoples". The Final Act of the United Nations Conference on Food and Agriculture affirms that "Progress by individual nations towards a higher standard of living contributes to the solution of broader economic problems, but freedom from want cannot be achieved without effective collaboration among nations". In fine, as is proclaimed by the preamble to the Constitution of the International Labour Organisation, a lasting peace can be established "only if it is based upon social justice" and, conversely, the failure of any nation to participate in social and economic advancement "is an obstacle in the way of other nations which desire to improve the conditions in their own countries". It would seem appropriate that this interdependence of world order and social and economic progress, which is now so fully recognised in international instruments and statements, should be accorded equal recognition in constitutional declarations of social and economic policy. A number of constitutions adopted during the inter-war period professed the attachment of the States adopting them to certain international policies and notably to the renunciation of war as an instrument of national policy. Such provisions may well be expanded in the future into constitutional affirmations of the determination of the State to participate fully in international action to establish solidly the material foundations of the liberty and welfare of all peoples.

In framing declarations of policy concerning the matters which have been mentioned it is important to have regard to certain broad principles derived from an analysis of the sociological function of such declarations of policy. The function of a constitutional declaration of social and economic policy is to give a particularly solemn sanction and status to principles which are regarded as of outstanding importance. It is hoped that the constitutional expression of such principles will impress them on the public mind in such a manner as to mould the political forces which will determine long range policies. The matter is well stated in the preamble to the Declaration of the Rights of Man which affirms that the representatives of the French people have resolved to set forth the rights of man "in order that this declaration, being ever present to all the members of the social body, may unceasingly remind them of their rights and duties; in order that the acts of the legislative power and those of the executive power may be each moment compared with the aim of every political institution and thereby may be more respected; and in order that the demands of citizens, grounded henceforth upon simple and incontestable principles, may always take the direction of maintaining the Constitution and welfare of all". The value of such declarations is largely educative even when they relate to individual rights. This is even more so in the case of declarations of social and economic policies. Social and economic policies can rarely be implemented by the affirmation in constitutional instruments of self executory rights. Constitutional declarations of such policies are essentially a pledge that the policies of the State will be consistently directed towards the attainment of certain ends. Such a pledge can be fulfilled through changes of circumstance only if it expresses a fixed national purpose. A declaration of policy which does not secure general acceptance as a statement of the long-term purposes of the community adopting

it therefore fails to achieve its main object; a declaration which makes no appeal to the popular imagination must necessarily fail to influence policy effectively; a declaration which occasions violent and lasting controversy will fail to achieve, and may tend to defeat, the object of exercising such an influence upon policy. A constitutional declaration of social and economic policy must educate; it must unite; and it must promote long-term consistency of policy. If it fails to achieve these objectives it is worthless and liable to be dangerous.

Declarations of policy which are meticulous, diffuse or verbose will normally fail to achieve any of these objectives. They will leave no more impact on the public mind than the details of an administrative regulation. Unless, like Magna Carta, they have historical associations which can be divorced from their content, they will never secure the status in men's minds of the Declaration of the Rights of Man. They will almost inevitably deal with things temporal and local as distinguished from the things which are, in the perspective of mortal minds, eternal and universal. They will become a bone of national dissension instead of a bond of national unity.

The importance of restraining partisan zeal when framing constitutional declarations of social and economic policy cannot be overestimated. A constitutional declaration of policy which fails to command the general assent of the community is as likely to discredit the constitution as to promote the permanent acceptance of the principles which it proclaims. The effect and fate of the prohibition amendment to the Constitution of the United States afford a typical illustration which has the advantage over other possible illustrations that in such matters one is under no obligation to speak well of the dead.

There can indeed be no doubt that many of the constitutional declarations of social and economic policy of recent years are open to serious criticism when judged by these criteria. They frequently err on the side of exuberance and contain an altogether excessive amount of detail; they contain entirely impractical provisions; they contain provisions of transitory importance and unimportant provisions of an administrative character; all too often they contain provisions representing party victories certain to be reversed when the fortunes of politics change, and in some cases already reversed as the result of civil war, revolution, constitutional amendment, ingenuity of interpretation, or the mere disregard of inconvenient constitutional provisions. Provisions which are open to these objections normally fail to achieve the ends of those who sponsor them; and they invariably tend to discredit not only the constitutional formulation of social objectives but constitutionalism itself.

Moderation is the essence of wisdom and a good constitutional declaration of social and economic policy must strike a fair compromise between aspiration and practicality. It must be inspired by warmheartedness and fashioned by hardheadedness. Human progress is for the most part a process of slow growth achieved through unremitting endeavour. Even the great revolutions have been in the main the breaking through of forces the growing latent strength of which had failed to command adequate public recognition. No declaration of policy, however wise or eloquent, can create a brave new world, even in this, the most revolutionary chapter of the human story. Such declarations can at best contribute to the growth of historical forces which may ultimately fashion a world of the four freedoms for all men everywhere. The manner in which these forces are moulded is, however,

of supreme importance. "The empires of the future are the empires of the mind."<sup>1</sup> And it is in the empires of the mind that the decisive actions in the unrelenting struggle for social and economic freedom will ultimately be won. To this end will free men, having triumphed over the resurgence of tyranny, dedicate anew "their lives, their fortunes and their sacred honour".

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<sup>1</sup> Mr. Winston Churchill, at Cambridge, Mass., 7 Sept. 1943.

## Explanatory Note

### Concerning the Scope and Limitations of the Present Volume

The present volume is a collection of constitutional provisions concerning social and economic policy covering 450 countries and other governmental units, which are grouped by continents, the continents being arranged in the order in which they have been influenced by modern constitutionalism. The volume should therefore, in addition to fulfilling its primary function as a reference book for the draftsmen of future constitutional declarations of social and economic policies, also tend to set a new standard of geographical comprehensiveness for the study of comparative constitutional law, which has too often been confined to the institutions of a very limited number of countries.

The determination of the range of questions to be dealt with in the volume has presented considerable difficulty. The nine principles formulated in Article 41 of the Constitution of the International Labour Organisation have exercised a certain, though perhaps limited, influence upon constitutional formulations of social and economic principle, and, less for this reason than because of preoccupation with the same issues of policy, there are in a substantial number of countries constitutional provisions concerning the questions dealt with in the International Labour Code: employment services, public works policy and national development schemes, and provision for unemployment; wages, hours of work, weekly rest periods, and holidays with pay; the admission of children and young persons to employment, vocational training and apprenticeship, and the employment of young persons at night; maternity protection and the employment of women at night and upon unhealthy work; industrial health, safety and welfare, including recreation and housing; social insurance in all its forms; industrial relations; the administration of social legislation; maritime employment, colonial labour policy and migration. All provisions of this type are clearly relevant to the purpose of the present volume and have, save perhaps for some regrettable oversight, in extenuation of which the difficulties arising from war conditions are pleaded, been included.

It is, however, now common ground between all elements in the International Labour Organisation that labour legislation in the old narrow sense "is only a very partial remedy for the social evils which the International Labour Organisation was created to combat".<sup>1</sup> In order to make the volume serviceable to those who are called upon to frame future instruments it has therefore been necessary to include in it not only provisions relating to "the comparatively narrow domain

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<sup>1</sup> International Labour Conference, Twenty-Fourth Session, Geneva, 1938, *Report of the Director*, p. 80.

of conditions of work" but equally provisions relating to "the infinitely more extensive area of conditions of life".<sup>1</sup> Subjects such as education, public health, public utilities, the regulation of industry and commerce, and the ownership and control of natural resources, must clearly have as important a place in any international or constitutional charter of social and economic principles as the general principles of labour legislation and the provision of social security through social insurance and social assistance. But these questions are inevitably connected with general economic policy, with public finance, and with such far-reaching issues as the attitude of the State towards religion, the position of the family, the concept of legal and social equality, and rights of property.

A reasonably complete collection of constitutional provisions regarding public finance would constitute a substantial volume. It has therefore been decided not to attempt any complete coverage of such provisions and in general only provisions directly relevant to social policy, such as provisions concerning differential taxation, loan policy, monetary policy, the financing of economic development, and the utilisation of colonial revenues in the interests of colonial peoples, have been included.<sup>2</sup> Provisions concerning the separation of the public revenues from the privy purse have been included only in the case of governmental units which are at a stage of constitutional development at which this issue is of pressing importance.

Religion, the position of the family, and the concept of equality have been dealt with in a similar manner. Provisions regarding the legal status of religious bodies have been excluded; provisions dealing with discrimination based on creed as a social problem or with the impact of religion on public education have been included. Provisions restricting divorce and the remarriage of divorced persons, provisions defining the status of civil and religious marriage respectively, and provisions regarding married women's property have been excluded; provisions concerning the social well-being of the family and the encouragement of motherhood by the State, and provisions extending social protection to illegitimate children (a subject with which the I.L.O. has frequently had to deal in connection with social insurance) have been included. General provisions of egalitarian principle have been included; provisions regarding titles, honours and foreign decorations have been excluded. Constitutional provisions designed for the protection of commercial interests, such as are contained in the Government of India Act and in the Ordin-

<sup>1</sup> INTERNATIONAL LABOUR OFFICE: *The I.L.O. and Reconstruction*, Report by the Acting Director of the International Labour Office to the Conference of the International Labour Organisation, New York, Oct. 1941 (Montreal, 1941), p. 88.

<sup>2</sup> General reaffirmations of the familiar principle that no tax may be collected without legal authorisation have been omitted; so have rules regarding budgetary procedure; provisions disqualifying from membership of legislatures and from other public offices persons having a financial interest in transactions with public authorities; and the provisions contained in a number of Latin American constitutions requiring persons assuming public office to make a declaration of their assets and income in order to facilitate subsequent verification that their public duties have been discharged in a disinterested manner. Provisions regarding the control of expenditure by Courts of Accounts and similar devices have been included only when they explicitly apply to public utilities and State-controlled industrial undertakings. Provisions regarding the allocation of revenues to particular authorities have been included only when they have a direct bearing on social policies, as in cases in which a fund is set aside to finance some social policy or in which the assignment of revenues in a federal State is a material factor in determining the allocation of responsibility for social and economic development. Provisions entrusting some organ of the State with responsibility for fixing and maintaining the fineness, weight and value of the currency, and for determining standards of weights and measures, have been excluded except when they present some unusual feature.



ance appended to the Constitution of the Philippines, have been included in order to avoid giving a seriously incomplete constitutional picture. So likewise have the provisions for the protection of native custom which, together with rules regarding native land reserves, have hitherto been the main equivalent for constitutional declarations of social policies in the case of the constitutional instruments applicable in certain colonial areas. The mistake of thinking of social and economic policy in terms which are appropriate only when a certain stage of development has been reached is one which has been all too frequent in the past, and a collection of texts of world-wide scope, while having as one of its main objects to make the texts from the more advanced countries conveniently available in developing areas, must necessarily reflect the wide variety of stages of development already attained. Throughout the criterion has been the degree of relationship with "the social objectives confided to the International Labour Organisation".

Nor can social and economic policy be treated in abstraction from the nature and extent of the freedom accorded to individuals by constitutional law and practice. It has therefore been decided, after some hesitation, to include in the present collection, not only provisions which give constitutional expression to positive social policies of a modern type, but also a selection from the provisions, representing in most cases an earlier stage of constitutional and economic evolution, which affirm individual rights. This decision has been taken partly because these provisions may have a bearing upon the development of social policies and may sometimes determine their constitutionality, partly because respect for these rights being the distinguishing characteristic of the democratic approach to social and economic problems, no collection of the constitutional provisions of the democratic States regarding social and economic policy would be complete if it ignored the provisions relating to the fundamental democratic liberties which we have inherited from the liberal era. If, however, all such provisions were included, the resulting collection would be so voluminous as to reduce considerably its practical utility, and to some extent attention would be distracted from the provisions dealing more directly with social and economic policy which it is the primary purpose of the present volume to assemble. It has therefore been decided to distinguish between those of the classical individual liberties which, in addition to their general importance and intrinsic value, have a significant bearing upon effective international co-operation in respect of social and economic questions, and those of them which are less directly relevant from this standpoint or are of secondary importance. Provisions concerning freedom of association, freedom of speech and expression, freedom of the press and the right of petition have accordingly been included; provisions concerning freedom from arbitrary arrest and freedom from arbitrary legal process, on the other hand, have been excluded, for although, as is pointed out in the Introduction, these freedoms are a *sine qua non* of the others, it would be impossible to deal with them satisfactorily without including a large number of detailed provisions concerning the procedural techniques through which alone they can be made effective.<sup>1</sup>

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<sup>1</sup> *A fortiori* provisions forbidding the manipulation of the jurisdiction of courts and prohibiting double jeopardy, and the detailed provisions regarding criminal procedure and the rules of evidence in criminal cases contained in a number of constitutions, especially those of the Latin American countries, have been excluded. Prohibitions of retroactive legislation, which have sometimes been of importance in controversies concerning the application of social legislation, have been excluded as reaffirmations of a relatively simple and well understood principle,

Provisions relating to proceedings against public authorities have also been excluded. Without effective means of redress against public authorities for legal injuries no guarantees of individual rights can be of any great avail, and there can be no assurance that social policies will be fairly and competently administered. The International Labour Organisation has already had occasion to consider the subject, especially in connection with social insurance, but in its wider aspects the question is one of great complexity and involves points of law which, under certain legal systems, are highly technical in character.

In preparing an international collection of this type the question whether constitutional provisions affirming principles of international policy should be included has naturally required consideration, and has been decided on the basis of criteria analogous to those followed in respect of individual rights. General professions of international solidarity which have been expressed in constitutional form may be relevant to social and economic policy and have therefore been included. So have provisions whereby international law is declared to constitute a part of the law of the land: such provisions have had little bearing upon social and economic policies hitherto, but it is reasonable to anticipate that the customary law of nations will increasingly acquire an important social and economic content and if this hope should be fulfilled provisions incorporating international law in municipal law may have substantial significance in relation to social and economic policy. Provisions limiting recourse to war or affirming the principle of the pacific settlement of international disputes have been omitted as being political rather than social or economic in character.<sup>1</sup> Certain constitutions deal in some detail with matters which are closely related with questions of public international law or with the conflict of laws, such as nationality, the status of aliens, the diplomatic protection of foreigners, and extradition. Provisions regarding the acquisition and loss of nationality have been excluded; the link between them and migration is hardly sufficiently direct to justify dealing with nationality in the present collection. Certain provisions regarding aliens, such as those defining their political status and limiting their political activities, have been excluded with equally little hesitation. Equally clear cut was the case for including provisions defining the position of aliens in relation to social legislation, land ownership, and suchlike issues. Provisions purporting to limit the diplomatic protection of aliens have been included in view of their close bearing on the development of social policies in certain countries. Provisions regarding extradition have in general been excluded.

In general the present volume does not deal with questions of constitutional structure or with the competence and functions of different organs of the State. It will, of course, be essential to build the international institutions of the future on a solid substructure of national constitutional arrangements adapted to the pressing need for effective international co-operation in pursuit of peace, welfare and

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except in cases where the principle is qualified by some provision which may be relevant in the formulation of social policies. Provisions affirming the time-honoured principles of the inviolability of the home and of private correspondence, which have found a place in innumerable constitutions from Abyssinia at the beginning of the alphabet to Yugoslavia at the end, have likewise been excluded, except in cases where these principles are qualified to facilitate the application of certain social policies.

<sup>1</sup> Provisions relating to membership of the League of Nations have been included in view of the rule that membership of the League involves membership of the International Labour Organisation: Article 1 (2) of the Constitution of the International Labour Organisation.

good government, but the texts which are relevant from this standpoint would constitute a substantial separate volume. Provisions regarding the general conduct of foreign relations and the conclusion and implementation of treaties have therefore been excluded except in cases in which they are directly relevant to the scope of the authority of federal or colonial legislatures to implement international engagements regarding social and economic questions. Happily these questions are dealt with reasonably fully in standard works well known to international and constitutional lawyers. Provisions regarding the competence and procedure of organs of the State have, however, been included when they imply certain principles of social and economic policy. In the federal constitutions, more particularly, such provisions sometimes have an effect almost indistinguishable from that of explicit declarations of policy. The general problem of the participation of federal States in international engagements regarding social questions is being reviewed by the International Labour Office in a series of special studies in pursuance of a decision of the International Labour Conference, and to supplement these studies the relevant constitutional texts have been included in the present volume. Even the non-federal Latin American constitutions frequently enumerate the powers vested by the constitution in the legislative and executive authorities and these powers are sometimes so expressed as to be equivalent to statements of policy; such provisions have been included. Constitutional provisions concerning the association of employers' and workers' organisations with the formulation of national policy regarding economic and social questions have also been included. The question of the collaboration of such organisations with the authorities in the formulation and application of public policy was one of the subjects considered at the Conference of the International Labour Organisation in New York in 1941. Other aspects of the impact of national constitutional arrangements in the work of the International Labour Organisation, such as the procedure for the submission of international labour conventions to national competent authorities, the delegation of powers to international bodies, and provisions affecting international budgets, have been regarded as outside the scope of the present volume but may receive fuller study at a later date if circumstances so require.

It must always be remembered that a collection of constitutional declarations of principle such as the present volume cannot give any picture of the manner in which, and subject to which, such declarations of principle are implemented in practice. A study of how such constitutional principles can best be made effective under the varying conditions of different countries, even if it excluded the economic problems involved as such, would involve the preparation of a comparative survey of institutions, administrative methods, and systems and standards of law enforcement. Such a survey necessarily falls outside the scope of a volume which is primarily a collection of constitutional texts. From this standpoint the question of the enforcement of constitutional guarantees and principles has been regarded as including that of the effect of unconstitutional legislation or administrative action and that of the suspension of constitutional guarantees. The position regarding judicial review of the constitutionality of legislation and administrative action differs greatly from one country to another. In some countries the constitution expressly provides for it; in others it expressly prohibits it. Where there is no constitutional provision,

the courts of some countries follow the American doctrine of judicial supremacy<sup>1</sup>, whereas those of others apply the British principle of parliamentary sovereignty<sup>2</sup>, with or without modifications resulting from the distribution of legislative power under federal systems. Certain constitutions establish special tribunals of constitutional guarantees to pass upon questions of constitutionality; others prescribe special procedures for the consideration of such questions by legislatures. The effect of constitutional guarantees of rights and principles of policy is also largely determined by the extent to which they are subject to suspension in greater or lesser emergencies. Some constitutions specifically prohibit any suspension of the constitutional guarantees, others provide for suspension and regulate it in considerable detail; others grant a blanket power of suspension; others are silent on the subject. Crucial as these questions are, as Dicey in his critical and sceptical evaluation of constitutional declarations of rights so properly pointed out<sup>3</sup>, they form a part of the problem of enforcement. Provisions on the subject have been regarded as outside the scope of the present volume, except in the few cases in which they specifically contemplate judicial review of the constitutionality of social legislation as such, or the suspension of constitutional guarantees in economic emergencies. The importance of these questions can, however, hardly be exaggerated. It was, it will be remembered, the emergency powers provided for in Article 48 of the Weimar Constitution which prepared the way for the subversion of constitutional government in Germany.

In view of the nature and purpose of this volume, it has been considered immaterial, in selecting the provisions to be included, whether or not a particular political entity or régime has been, or continues to be, generally recognised by the Governments of the Members of the International Labour Organisation, whether or not it ought to be regarded as internationally or constitutionally legitimate, whether or not it is ideologically acceptable, or whether or not it is likely to survive or to be restored after the war. The extent to which any particular instrument or provision should be regarded as a model in any particular case will naturally be determined by one's evaluation of the political entity and régime responsible for it, but the value of a collection of documentary material is largely a function of the extent to which it is comprehensive in character. For the same reason it has been thought desirable to include the Labour Charters of the corporate States which are regarded there as having a constitutional character, and to include in certain cases material from several successive constitutions. Some of the constitutions which are no longer in force represent significant attempts to solve problems which will continue to confront those responsible for framing future constitutions, and their omission from the present volume would reduce substantially its utility as a work of reference. Where successive texts are given, the text currently or most recently in force is given first; subject to this, texts are given in chronological order.

Considerations of economy of space, time and labour, and the impossibility of access to the Geneva libraries of the League of Nations and the International Labour Office, have made it impossible to include in the present volume detailed annotations

<sup>1</sup> Charles G. HAINES: *The American Doctrine of Judicial Supremacy* (Berkeley, Calif., University of California Press, 1932).

<sup>2</sup> A. V. DICEY: *Law of the Constitution*, 8th edition, pp. 37-174.

<sup>3</sup> *Ibid.*, pp. 192-199.

indicating judicial decisions, parliamentary discussions and official reports concerning the provisions included, and giving full bibliographical references to the literature relating to the constitution of each country and to the historical, economic and social backgrounds which have determined processes of constitutional growth. It has, however, been kept in mind that the reader of a collection of extracts from constitutional texts is always liable to wish to refer to a complete text or to the original language. References have therefore been given, wherever possible, to both an authoritative source giving the original text and a reliable source giving a complete text in English, French, or Spanish. No attempt has been made to undertake the herculean task of preparing new and better translations of texts already translated elsewhere. A general bibliography of collections of constitutional texts, treaty collections containing relevant texts, official gazettes, collected editions of national laws and regulations, and other works of reference, has been included; these are the basic materials for further study of the subject and it is hoped that this bibliography may be of value to all students of comparative constitutional law.

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INTERNATIONAL  
DECLARATIONS  
OF  
POLICY



# International Declarations of Policy

## The Covenant of the League of Nations<sup>1</sup>

28 June 1919

The High Contracting Parties,  
In order to promote international co-operation and to achieve international peace and security  
by the acceptance of obligations not to resort to war,  
by the prescription of open, just and honourable relations between nations,  
by the firm establishment of the understandings of international law as the actual rule of conduct among Governments,  
and by the maintenance of justice and a scrupulous respect for all treaty obligations in the dealings of organised peoples with one another,  
Agree to this Covenant of the League of Nations.

### ARTICLE 3

3. The Assembly may deal at its meetings with any matter within the sphere of action of the League or affecting the peace of the world.

### ARTICLE 4

4. The Council may deal at its meetings with any matter within the sphere of action of the League or affecting the peace of the world.

### ARTICLE 22

1. To those colonies and territories which as a consequence of the late war have ceased to be under the sovereignty of the States which formerly governed them and which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well-being and development of such peoples form a sacred trust of civilisation and that securities for the performance of this trust should be embodied in this Covenant.

2. The best method of giving practical effect to this principle is that the tutelage of such peoples should be entrusted to advanced nations who by reason of their resources, their experience or their geographical position can best undertake this responsibility, and who are willing to accept it, and that this tutelage should be exercised by them as Mandatories on behalf of the League.

3. The character of the mandate must differ according to the stage of the development of the people, the geographical situation of the territory, its economic conditions and other similar circumstances.

4. Certain communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognised subject to the rendering of administrative advice and

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<sup>1</sup> HUDSON: *International Legislation*, Vol. 1, 1919-1921, pp. 2-17.

assistance by a Mandatory until such time as they are able to stand alone. The wishes of these communities must be a principal consideration in the selection of the Mandatory.

5. Other peoples, especially those of Central Africa, are at such a stage that the Mandatory must be responsible for the administration of the territory under conditions which will guarantee freedom of conscience and religion, subject only to the maintenance of public order and morals, the prohibition of abuses such as the slave trade, the arms traffic and the liquor traffic, and the prevention of the establishment of fortifications or military and naval bases and of military training of the natives for other than police purposes and the defence of territory, and will also secure equal opportunities for the trade and commerce of other Members of the League.

6. There are territories, such as South-West Africa and certain of the South Pacific Islands, which, owing to the sparseness of their population, or their small size, or their remoteness from the centres of civilisation, or their geographical contiguity to the territory of the Mandatory, and other circumstances, can be best administered under the laws of the Mandatory as integral portions of its territory, subject to the safeguards above-mentioned in the interests of the indigenous population.

7. In every case of mandate, the Mandatory shall render to the Council an annual report in reference to the territory committed to its charge.

8. The degree of authority, control, or administration to be exercised by the Mandatory shall, if not previously agreed upon by the Members of the League, be explicitly defined in each case by the Council.

9. A permanent Commission shall be constituted to receive and examine the annual reports of the Mandatories and to advise the Council on all matters relating to the observance of the mandates.

### ARTICLE 23

Subject to and in accordance with the provisions of international conventions existing or hereafter to be agreed upon, the Members of the League:

(a) will endeavour to secure and maintain fair and humane conditions of labour for men, women, and children, both in their own countries and in all countries to which their commercial and industrial relations extend, and for that purpose will establish and maintain the necessary international organisations;

(b) undertake to secure just treatment of the native inhabitants of territories under their control;

(c) will entrust the League with the general supervision over the execution of agreements with regard to the traffic in women and children, and the traffic in opium and other dangerous drugs;

(d) will entrust the League with the general supervision of the trade in arms and ammunition with the countries in which the control of this traffic is necessary in the common interest;

(e) will make provision to secure and maintain freedom of communications and of transit and equitable treatment for the commerce of all Members of the League. In this connection, the special necessities of the regions devastated during the war of 1914-1918 shall be borne in mind;

(f) will endeavour to take steps in matters of international concern for the prevention and control of disease.

### ARTICLE 24

1. There shall be placed under the direction of the League all international bureaux already established by general treaties if the parties to such treaties consent. All such international bureaux and all commissions for the regulation of matters



of international interest hereafter constituted shall be placed under the direction of the League.

2. In all matters of international interest which are regulated by general conventions but which are not placed under the control of international bureaux or commissions, the Secretariat of the League shall, subject to the consent of the Council and if desired by the parties, collect and distribute all relevant information and shall render any other assistance which may be necessary or desirable.

3. The Council may include as part of the expenses of the Secretariat the expenses of any bureau or commission which is placed under the direction of the League.

#### ARTICLE 25

The Members of the League agree to encourage and promote the establishment and co-operation of duly authorised voluntary national Red Cross organisations having as purposes the improvement of health, the prevention of disease and the mitigation of suffering throughout the world.

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## The Constitution of the International Labour Organisation<sup>1</sup>

*28 June 1919*

### SECTION I. ORGANISATION OF LABOUR

#### PREAMBLE

Whereas the League of Nations has for its object the establishment of universal peace, and such a peace can be established only if it is based upon social justice;

And whereas conditions of labour exist involving such injustice, hardship and privation to large numbers of people as to produce unrest so great that the peace and harmony of the world are imperilled; and an improvement of those conditions is urgently required: as, for example, by the regulation of the hours of work, including the establishment of a maximum working day and week, the regulation of the labour supply, the prevention of unemployment, the provision of an adequate living wage, the protection of the worker against sickness, disease and injury arising out of his employment, the protection of children, young persons and women, provision for old age and injury, protection of the interests of workers when employed in countries other than their own, recognition of the principle of freedom of association, the organisation of vocational and technical education and other measures;

Whereas also the failure of any nation to adopt humane conditions of labour is an obstacle in the way of other nations which desire to improve the conditions in their own countries;

The High Contracting Parties, moved by sentiments of justice and humanity as well as by the desire to secure the permanent peace of the world, agree to the following:

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<sup>1</sup> *Constitution and Standing Orders of the International Labour Organisation.*

## CHAPTER I. ORGANISATION

*Article 1*

1. A permanent organisation is hereby established for the promotion of the objects set forth in the Preamble.

.....

## SECTION II. GENERAL PRINCIPLES

*Article 41*

The High Contracting Parties, recognising that the well-being, physical, moral and intellectual, of industrial wage earners is of supreme international importance, have framed, in order to further this great end, the permanent machinery provided for in Section 1, and associated with that of the League of Nations.

They recognise that differences of climate, habits and customs, of economic opportunity and industrial tradition, make strict uniformity in the conditions of labour difficult of immediate attainment. But, holding as they do that labour should not be regarded merely as an article of commerce, they think that there are methods and principles for regulating labour conditions which all industrial communities should endeavour to apply, so far as their special circumstances will permit.

Among these methods and principles, the following seem to the High Contracting Parties to be of special and urgent importance:

*First.* The guiding principle above enunciated that labour should not be regarded merely as a commodity or article of commerce.

*Second.* The right of association for all lawful purposes by the employed as well as by the employers.

*Third.* The payment to the employed of a wage adequate to maintain a reasonable standard of life as this is understood in their time and country.

*Fourth.* The adoption of an eight hours day or a forty-eight hours week as the standard to be aimed at where it has not already been attained.

*Fifth.* The adoption of a weekly rest of at least twenty-four hours, which should include Sunday wherever practicable.

*Sixth.* The abolition of child labour and the imposition of such limitations on the labour of young persons as shall permit the continuation of their education and assure their proper physical development.

*Seventh.* The principle that men and women should receive equal remuneration for work of equal value.

*Eighth.* The standard set by law in each country with respect to the conditions of labour should have due regard to the equitable economic treatment of all workers lawfully resident therein.

*Ninth.* Each State should make provision for a system of inspection in which women should take part, in order to ensure the enforcement of the laws and regulations for the protection of the employed.

Without claiming that these methods and principles are either complete or final, the High Contracting Parties are of opinion that they are well fitted to guide the policy of the League of Nations; and that, if adopted by the industrial communities who are Members of the League, and safe-guarded in practice by an adequate system of such inspection, they will confer lasting benefits upon the wage earners of the world.

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## The Atlantic Charter<sup>1</sup>

14 August 1941

The President of the United States and the Prime Minister, Mr. Churchill, representing His Majesty's Government in the United Kingdom, have met at sea.

The President and the Prime Minister have had several conferences. They have considered the dangers to world civilisation arising from the policies of military domination by conquest upon which the Hitlerite government of Germany and other governments associated therewith have embarked, and have made clear the steps which their countries are respectively taking for their safety in the face of these dangers.

They have agreed on the following Declaration:

The President of the United States of America and the Prime Minister, Mr. Churchill, representing His Majesty's Government in the United Kingdom, being met together, deem it right to make known certain common principles in the national policies of their respective countries on which they base their hopes for a better future for the world.

*First.* Their countries seek no aggrandisement, territorial or other;

*Second.* They desire to see no territorial changes that do not accord with the freely expressed wishes of the peoples concerned;

*Third.* They respect the right of all peoples to choose the form of government under which they will live; and they wish to see sovereign rights and self-government restored to those who have been forcibly deprived of them;

*Fourth.* They will endeavour, with due respect for their existing obligations, to further the enjoyment by all States, great or small, victor or vanquished, of access, on equal terms, to the trade and to the raw materials of the world which are needed for their economic prosperity;

*Fifth.* They desire to bring about the fullest collaboration between all nations in the economic field with the object of securing, for all, improved labour standards, economic advancement and social security;

*Sixth.* After the final destruction of the Nazi tyranny, they hope to see established a peace which will afford to all nations the means of dwelling in safety within their own boundaries, and which will afford assurance that all the men in all the lands may live out their lives in freedom from fear and want;

*Seventh.* Such a peace should enable all men to traverse the high seas and oceans without hindrance;

*Eighth.* They believe that all of the nations of the world, for realistic as well as spiritual reasons, must come to the abandonment of the use of force. Since no future peace can be maintained if land, sea or air armaments continue to be employed by nations which threaten, or may threaten, aggression outside of their frontiers, they believe, pending the establishment of a wider and permanent system of general security, that the disarmament of such nations is essential. They will likewise aid and encourage all other practicable measures which will lighten for peace-loving peoples the crushing burden of armaments.

Franklin D. ROOSEVELT  
Winston S. CHURCHILL

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<sup>1</sup> *The American Journal of International Law*, Vol. 35, No. 4, Oct. 1941, Official Documents, pp. 191-192.

## Resolution of the Inter-Allied Meeting Held in London at St. James's Palace<sup>1</sup>

*24 September 1941*

The Governments of the United Kingdom of Great Britain and Northern Ireland, Canada, the Commonwealth of Australia, New Zealand and the Union of South Africa, the Governments of Belgium, Czechoslovakia, Greece, Luxemburg, the Netherlands, Norway, Poland, the Union of Soviet Socialist Republics and Yugoslavia, and the representatives of General de Gaulle, leader of Free Frenchmen, agree:

1. That it is their common aim to secure that supplies of food, raw materials and articles of prime necessity should be made available for the post-war needs of the countries liberated from Nazi oppression.

2. That, while each of the Allied Governments and authorities will be primarily responsible for making provision for the economic needs of its own peoples, their respective plans should be co-ordinated, in a spirit of Inter-Allied collaboration, for the successful achievement of the common aim.

3. That they welcome the preparatory measures which have already been undertaken for this purpose and express their readiness to collaborate to the fullest extent of their power in pursuing the action required.

4. That, accordingly, each of the Allied Governments and authorities should prepare estimates of the kinds and amounts of foodstuffs, raw materials and articles of prime necessity required, and indicate the order of priority in which it would desire supplies to be delivered.

5. That the reprovisioning of Europe will require the most efficient employment after the war of the shipping resources controlled by each Government and of Allied resources as a whole, as well as of those belonging to other European countries, and that plans to this end should be worked out, as soon as possible between the Allied Governments and authorities, in consultation as and when appropriate with other Governments concerned.

6. That, as a first step, a bureau should be established by His Majesty's Government in the United Kingdom, with which the Allied Governments and authorities would collaborate in framing estimates of their requirements, and which, after collating and co-ordinating these estimates, would present proposals to a Committee of Allied representatives under the chairmanship of Sir Frederick Leith-Ross.

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<sup>1</sup> British Parliamentary Paper, Cmd. 6315, Miscellaneous No. 3 (1941), Inter-Allied Meeting held in London at St. James's Palace on September 24, 1941, *Report of Proceedings*. For the Draft Agreement for a United Nations Relief and Rehabilitation Administration, released to the press on 11 June 1943, see *The Department of State Bulletin*, Vol. VIII, No. 207, 12 June 1943, pp. 523-527.

## Resolution of the International Labour Conference regarding Post-War Emergency and Reconstruction Measures<sup>1</sup>

4 November 1941

Whereas the victory of the free peoples in the war against totalitarian aggression is an indispensable condition of the attainment of the ideals of the International Labour Organisation; and

Whereas the close of the war must be followed by immediate action, previously planned and arranged, for the feeding of peoples in need, for the reconstruction of the devastated countries, for the provision and transportation of raw materials and capital equipment necessary for the restoration of economic activity, for the reopening of trade outlets, for the resettlement of workers and their families under circumstances in which they can work in freedom and security and hope, for the changing over of industry to the needs of peace, for the maintenance of employment, and for the raising of standards of living throughout the world; and

Whereas the accomplishment of these purposes will require the "fullest collaboration between all nations in the economic field"; and

Whereas such collaboration will set tasks of organisation and administration calling for the highest ability and for the most sympathetic understanding of the needs of peoples; and

Whereas the International Labour Organisation, which possesses the confidence of the free peoples and includes in its structure the representatives of workers and employers, is for these reasons peculiarly fitted to take part in this work in such a way as to minimise misunderstanding and unrest and to promote a stable and enduring peace:

The Conference of the International Labour Organisation  
Requests the Governing Body:

(a) To transmit this resolution forthwith to the Governments of all Member States, to call their attention to the desirability of associating the International Labour Organisation with the planning and application of measures of reconstruction, and to ask that the International Labour Organisation be represented in any Peace or Reconstruction Conference following the war;

(b) To suggest to the Governments of the Member States that they should, if they have not already done so, set up representative agencies for the study of the social and economic needs of the post-war world and that such agencies should consult with the appropriate organs of the International Labour Organisation;

(c) To set up from its own membership a small tripartite committee, instructed to study and prepare (i) measures of reconstruction and (ii) measures to deal with unemployment, which should be empowered to enlist the assistance of technically qualified experts and authorised to co-operate with governmental, inter-governmental, and private agencies engaged in similar studies and with those agencies whose present activities in the social and economic field affect the conditions under which post-war programmes will be carried out;

(d) To make full use of such existing organs of the International Labour Organisation as the International Public Works Committee, the Permanent Agricultural Committee, the Permanent Committee on Migration for Settlement, and the Joint Maritime Commission, and from time to time to make such modifications

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<sup>1</sup> Conference of the International Labour Organisation, 1941, New York and Washington, D.C., *Record of Proceedings*, p. 163.

in the composition of these agencies, and to set up such new agencies, as may be needed to meet the responsibilities implied in this resolution;

(e) To direct the programme of work of the International Labour Office to fulfil the purposes of this resolution; and

(f) To report on the subject matter of this resolution to the next and subsequent meetings of the International Labour Conference so that the International Labour Organisation shall be in a position to give authoritative expression to the social objectives confided to it, in the rebuilding of a peaceful world upon the basis of "improved labour standards, economic advancement and social security".

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## Resolution of the International Labour Conference Endorsing the Atlantic Charter<sup>1</sup>

5 November 1941

Whereas by the Atlantic Charter the President of the United States of America and the Prime Minister of the United Kingdom have announced eight common principles in the national policies of their respective Governments on which they base their hopes for the better future of the world; and

Whereas these principles have been approved by all the Allied Governments; and

Whereas the Fourth, Fifth, and Sixth of these principles are as follows:

*Fourth*, they will endeavour, with due respect for their existing obligations, to further the enjoyment by all States, great or small, victor or vanquished, of access, on equal terms, to the trade and to the raw materials of the world which are needed for their economic prosperity.

*Fifth*, they desire to bring about the fullest collaboration between all nations in the economic field with the object of securing for all improved labour standards, economic advancement and social security.

*Sixth*, after the final destruction of the Nazi tyranny, they hope to see established a peace which will afford to all nations the means of dwelling in safety within their own boundaries, and which will afford assurance that all the men in all the lands may live out their lives in freedom from fear and want.

and

Whereas the Constitution of the International Labour Organisation proclaims that a lasting peace "can be established only if it is based on social justice";

The Conference of the International Labour Organisation endorses the aforementioned principles of the Atlantic Charter, requests that the fullest use be made of the machinery and experience of the International Labour Organisation in giving effect to these principles, and pledges the full co-operation of the International Labour Organisation in their implementation.

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<sup>1</sup> Conference of the International Labour Organisation, 1941, New York and Washington, D.C., *Record of Proceedings*, pp. 163-164.

## The Declaration of the United Nations<sup>1</sup>

1 January 1942

The Governments signatory hereto,

Having subscribed to a common programme of purposes and principles embodied in the Joint Declaration of the President of the United States of America and the Prime Minister of the United Kingdom of Great Britain and Northern Ireland dated August 14, 1941, known as the Atlantic Charter,

Being convinced that complete victory over their enemies is essential to defend life, liberty, independence and religious freedom, and to preserve human rights and justice in their own lands as well as in other lands, and that they are now engaged in a common struggle against savage and brutal forces seeking to subjugate the world, Declare:

1. Each Government pledges itself to employ its full resources, military or economic, against those members of the Tripartite Pact and its adherents with which such Government is at war.

2. Each Government pledges itself to co-operate with the Governments signatory hereto and not to make a separate armistice or peace with the enemies.

The foregoing declaration may be adhered to by other nations which are, or which may be, rendering material assistance and contributions in the struggle for victory over Hitlerism.

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## Mutual Aid Agreements, 1942<sup>2</sup>

*Mutual Aid Agreement between Great Britain and the United States,  
Signed at Washington, 23 February 1942*

Whereas the Governments of the United States of America and the United Kingdom of Great Britain and Northern Ireland declare that they are engaged in a co-operative undertaking, together with every other nation or people of like mind, to the end of laying the bases of a just and enduring world peace securing order under law to themselves and all nations;

And whereas the President of the United States of America has determined, pursuant to the Act of Congress of March 11, 1941, that the defence of the United Kingdom against aggression is vital to the defence of the United States of America;

And whereas the United States of America has extended and is continuing to extend to the United Kingdom aid in resisting aggression;

And whereas it is expedient that the final determination of the terms and conditions upon which the Government of the United Kingdom receives such aid and of the benefits to be received by the United States of America in return therefor should be deferred until the extent of the defence aid is known and until the progress of events makes clearer the final terms and conditions and benefits which will

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<sup>1</sup>*The American Journal of International Law*, Vol. 36, No. 3, July 1942, Official Documents, pp. 191-192.

<sup>2</sup>*Ibid.*, pp. 170-173. Similar agreements have been signed between the United States and 19 other countries.

be in the mutual interests of the United States of America and the United Kingdom and will promote the establishment and maintenance of world peace;

And whereas the Governments of the United States of America and the United Kingdom are mutually desirous of concluding now a preliminary agreement in regard to the provision of defence aid and in regard to certain considerations which shall be taken into account in determining such terms and conditions and the making of such an agreement has been in all respects duly authorised, and all acts, conditions and formalities which it may have been necessary to perform, fulfil or execute prior to the making of such an agreement in conformity with the laws of the United States of America or of the United Kingdom have been performed, fulfilled or executed as required;

The undersigned, being duly authorised by their respective Governments for that purpose have agreed as follows:

#### ARTICLE VII

In the final determination of the benefits to be provided to the United States of America by the Government of the United Kingdom in return for aid furnished under the Act of Congress of March 11, 1941, the terms and conditions thereof shall be such as not to burden commerce between the two countries, but to promote mutually advantageous economic relations between them and the betterment of world-wide economic relations. To that end, they shall include provision for agreed action by the United States of America and the United Kingdom, open to participation by all other countries of like mind, directed to the expansion, by appropriate international and domestic measures, of production, employment, and the exchange and consumption of goods, which are the material foundations of the liberty and welfare of all peoples; to the elimination of all forms of discriminatory treatment in international commerce, and to the reduction of tariffs and other trade barriers; and, in general, to the attainment of all the economic objectives set forth in the Joint Declaration made on August 12, 1941, by the President of the United States of America and the Prime Minister of the United Kingdom.

At an early convenient date, conversations shall be begun between the two Governments with a view to determining, in the light of governing economic conditions, the best means of attaining the above-stated objectives by their own agreed action and of seeking the agreed action of other like-minded Governments.

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## International Wheat Agreement

*Draft Convention Annexed to the Memorandum of Agreement  
Initialled at Washington, 22 April 1942, on behalf of the  
Governments of Argentina, Australia, Canada, the  
United Kingdom and the United States<sup>1</sup>*

#### PREAMBLE

1. The prospects with regard to the production and marketing of wheat are such that accumulation of wheat surpluses threatens to result in grave post-war

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<sup>1</sup> *The American Journal of International Law*, Vol. 37, No. 1, Jan. 1943, Official Documents, pp. 24-41.



difficulties for the economies of the producing countries and hence, because of the interdependence of nations, for the economies of all countries. It is also to be expected that, unless appropriate action is taken, such accumulation will recur.

2. A solution of the problem thus presented must be regarded as an essential part of any programme of world economic reconstruction and will call for co-operative action by all countries concerned in international trade in wheat. It will involve national and international measures for the regulation of wheat production in both exporting and importing countries, for the orderly distribution of wheat and flour in domestic and international trade at such prices as are fair to consumers and provide a reasonable remuneration to producers and for the maintenance of world supplies which shall be at all times ample for the needs of consumers without being so excessive as to create a world burden of unwanted surpluses.

3. Co-operative action is also necessary to meet the need for relief in the war-stricken areas of the world by the supply and distribution of gifts of wheat.

4. The benefits of abundant world supplies of wheat cannot be assured to consumers unless there is a substantial decrease in uneconomic incentives to high-cost production, a lowering of barriers to world trade and the charging of prices to consumers not substantially higher than the price of wheat in international trade.

5. In many countries the standard of living would be improved by increasing the consumption of wheat through a lowering of prices. In all countries the standard of living would be improved by stimulating the consumption of foods rich in vitamins, proteins and minerals. The increased production of such foods would offer a more valuable use for land which has at times been used uneconomically for high-cost production of wheat.

6. Producers of an international commodity such as wheat are directly affected by standards of living throughout the world, by international purchasing power and by prevailing policies and practices affecting international trade generally. There can be no basic solution of the problem of export surpluses without a general reduction of import barriers and no measure should be taken or maintained which has the effect of retarding such reduction or of preventing in any way the fullest possible development of international trade.

Accordingly the contracting Governments have agreed as follows:

#### I. EXPANSION OF TRADE

1. The contracting Governments agree that an essential element of a solution of the world wheat problem is that consumers should have the opportunity and means of increasing their purchases of wheat from areas which are equipped to produce it economically. They agree that such opportunity and means depend not only on the lowering of barriers to the importation of wheat but also on making available to wheat importing countries increased outlets for the exportation of goods which they in turn are equipped to produce economically. They agree that this requires the adoption and pursuit of national and international policies aimed at a fuller and more efficient use among nations of human and natural resources and thereby a world-wide expansion of purchasing power.

2. Recognising therefore that much that is called for transcends the scope of a wheat agreement and requires action on a broad international basis, but that much also can be accomplished by national measures and by agreements with each other and with other countries, the contracting Governments undertake to further in every way possible the attainment of the foregoing objectives.

3. The Council shall from time to time submit to the contracting Governments a review of international trade in wheat and invite them to consider, in the light of the foregoing, what measures may be adopted for the expansion of such trade.

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## Report of the League of Nations Delegation on Economic Depressions<sup>1</sup>

12 April 1943

.....  
We believe that the objectives of economic policy should be to assure:

1) That the fullest possible use is made of the resources of production, human and material, of the skill and enterprise of the individual, of available scientific discoveries and inventions so as to attain and maintain in all countries a stable economy and rising standards of living;

2) That, in so far as possible, no man or woman able and willing to work should be unable to obtain employment for periods of time longer than is needed to transfer from one occupation to another or, when necessary, to acquire a new skill;

3) That in the use of these productive resources, the provision of goods and services to meet the essential physiological needs of all classes of the population in food, clothing, house room and medical care, is a prime consideration;

4) That society distribute, as far as possible, the risk to the individual resulting from interruption or reduction of earning power;

5) That the liberty of each individual to choose his own occupation is respected and is promoted by equal educational opportunities;

6) That the liberty of each country to share in the markets of the world and thus to obtain access to the raw materials and manufactured goods bought and sold on those markets is promoted by the progressive removal of obstructions to trade;

7) That the benefits of modern methods of production are made available to all peoples both by the progressive removal of obstructions to trade and by courageous international measures of reconstruction and development.

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## Final Act of the United Nations Conference on Food and Agriculture<sup>2</sup>

3 June 1943

### I. DECLARATION

This Conference, meeting in the midst of the greatest war ever waged, and in full confidence of victory, has considered the world problems of food and agriculture and declares its belief that the goal of freedom from want of food, suitable and adequate for the health and strength of all peoples, can be achieved.

1. The first task is to complete the winning of the war and to deliver millions of people from tyranny and from hunger. During the period of critical shortage

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<sup>1</sup> *The Transition from War to Peace Economy*, League of Nations, 1943, Official No.: C.6. M.6. 1943. IIA.

<sup>2</sup> DEPARTMENT OF STATE: *United Nations Conference on Food and Agriculture, Hot Springs, Virginia, May 18 to June 3, 1943, Final Act and Section Reports*, Publication 1948, Conference Series 52, U.S. Government Printing Office, 1943.

in the aftermath of war, freedom from hunger can be achieved only by urgent and concerted efforts to economise consumption, to increase supplies and distribute them to the best advantage.

2. Thereafter we must equally concert our efforts to win and maintain freedom from fear and freedom from want. The one cannot be achieved without the other.

3. There has never been enough food for the health of all people. This is justified neither by ignorance nor by the harshness of nature. Production of food must be greatly expanded; we now have knowledge of the means by which this can be done. It requires imagination and firm will on the part of each Government and people to make use of that knowledge.

4. The first cause of hunger and malnutrition is poverty. It is useless to produce more food unless men and nations provide the markets to absorb it. There must be an expansion of the whole world economy to provide the purchasing power sufficient to maintain an adequate diet for all. With full employment in all countries, enlarged industrial production, the absence of exploitation, an increasing flow of trade within and between countries, an orderly management of domestic and international investment and currencies, and sustained internal and international economic equilibrium, the food which is produced can be made available to all people.

5. The primary responsibility lies with each nation for seeing that its own people have the food needed for life and health; steps to this end are for national determination. But each nation can fully achieve its goal only if all work together.

6. We commend to our respective Governments and authorities the study and adoption of the findings and recommendations of this Conference and urge the early concerted discussion of the related problems falling outside the scope of this Conference.

7. The first steps towards freedom from want of food must not await the final solution of all other problems. Each advance made in one field will strengthen and quicken advance in all others. Work already begun must be continued. Once the war has been won decisive steps can be taken. We must make ready now.

## II. INTERIM AND PERMANENT COMMISSIONS FOR CARRYING OUT THE RECOMMENDATIONS OF THE UNITED NATIONS CONFERENCE ON FOOD AND AGRICULTURE

The United Nations Conference on Food and Agriculture recommends:

That the Governments and authorities here represented recognise and embody in a formal declaration or agreement the obligation to their respective peoples and to one another, henceforth to collaborate in raising levels of nutrition and standards of living of their peoples, and to report to one another on the progress achieved; and . . . resolves:

That the functions of the Interim Commission be to formulate and recommend for consideration by each member Government or authority: . . .

(b) The formal declaration or agreement referred to in the first recommendation, in which each participant shall recognise its obligation:

- (I) To raise the levels of nutrition and standards of living of its own people;
- (II) To improve the efficiency of agricultural production and distribution;
- (III) To co-operate, so far as may be possible, with other nations for the achievement of these ends;
- (IV) To undertake to submit periodically to the other participants, through the permanent organisation, reports on the action taken and the progress achieved toward these ends.

## XXIV. ACHIEVEMENT OF AN ECONOMY OF ABUNDANCE

Whereas:

1. The first cause of hunger and malnutrition is poverty;
2. The promotion of the full employment of human and material resources, based on sound social and economic policies, is the first condition of a general and progressive increase in production and purchasing power;
3. The sound expansion of industry in undeveloped and other areas, with equality of access to materials and markets, serves also to expand production and purchasing power and is therefore indispensable to any comprehensive programme for the advancement of agriculture;
4. Tariffs and other barriers to international trade, and abnormal fluctuations in exchange rates, restrict the production, distribution, and consumption of food-stuffs and other commodities;
5. Progress by individual nations towards a higher standard of living contributes to the solution of broader economic problems, but freedom from want cannot be achieved without effective collaboration among nations;

The United Nations Conference on Food and Agriculture recommends:

1. That the Governments and authorities here represented, by virtue of their determination to achieve freedom from want for all people in all lands, affirm the principle of mutual responsibility and co-ordinated action:

(a) To promote the full and most advantageous employment of their own and all other people and a general advance in standards of living, thereby providing for an increase in both production and purchasing power;

(b) To promote the uninterrupted development and most advantageous use of agricultural and other material resources for the establishment of an equitable balance between agriculture and industry in the interest of all;

(c) To secure for agriculture the stimulus of additional purchasing power through the sound development of industry;

(d) To assist in the achievement of these ends by all appropriate means, including the supply of capital, equipment, and technical skill;

(e) To maintain an equilibrium in balances of payments, and to achieve the orderly management of currencies and exchange;

(f) To improve the methods and reduce the cost of distribution in international trade;

(g) As an integral part of this programme, to reduce barriers of every kind to international trade and to eliminate all forms of discriminatory restrictions thereon, including inequitable policies in international transportation, as effectively and as rapidly as possible.

2. That these Governments and authorities take, individually and in concert, whether by conference or otherwise, all necessary measures, both domestic and international, to secure the application of this principle and the achievement of these objectives.

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## XXVI. SPECIAL NATIONAL MEASURES FOR WIDER FOOD DISTRIBUTION

Whereas:

1. Even in the most prosperous countries there are many families which cannot afford to buy enough good food;
2. In some countries, and at some times, hunger and semi-starvation have been widespread;

3. This situation has existed even when agricultural prices have been low and when large supplies of food have piled up in warehouses or rotted in the fields, and the problem will not be fully met by general economic measures to stimulate production and trade;

The United Nations Conference on Food and Agriculture recommends:

1. That the Governments and authorities here represented accept the responsibility of making it possible, so far as it is within their power, for each person in their respective countries who is without an adequate diet, to improve his diet in the direction of obtaining the physiological requirements of health, adopting such of the following, or other, measures as are designed to fit local conditions and institutions:

(a) Adequate social-security measures, such as family allowances, social insurance, and minimum wages;

(b) Some form of direct action to make protective foods available free, or at low prices, to groups with inadequate diets;

(c) Special attention to assisting such groups as pregnant women, nursing mothers, infants, children, aged persons, invalids, and low-paid persons;

2. That the diets provided under these programmes be based upon the best scientific information on nutritional needs;

3. That food-distribution measures be co-ordinated with programmes to increase food production and to bring about adjustments in agriculture and fishing which will, on the one hand, encourage the production and distribution of those foods most lacking in the diets of the country, and adapted to the soils and climates; and will, on the other hand, provide an adequate level of living to persons engaged in farming and fishing;

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# American Continental Declarations of Policy

## The Declaration of Havana, 1939<sup>1</sup>

*30 November 1939*

The representatives of the Governments, employers, and workpeople of the American Continent,

Having met at Havana on 21 November 1939, in accordance with the generous invitation of the Cuban Government at the Second Labour Conference of American States which are Members of the International Labour Organisation;

Adopt, this thirtieth day of November 1939, the following solemn declaration, which may be cited as the Declaration of Havana, 1939:

Whereas, as is declared by the Preamble to the Constitution of the International Labour Organisation, lasting peace can be established only if it is based on social justice; and

Whereas the existence of conditions of labour involving injustice, hardship, and privation to large numbers of people is calculated to produce unrest so great that the peace and harmony of the world are imperilled; and

Whereas the International Labour Organisation has determined to continue the quest for social justice in peace and in war; and

Whereas these efforts of the International Labour Organisation are completely compatible with the spirit of the Declaration of Lima of 24 December 1938, and the Declaration of Continental solidarity adopted at Panama on 3 October 1939, and with the desire to set the world an example of a whole continent determined to resolve its differences without recourse to violence; and

Whereas, in view of the constructive policy which it has adopted, the International Labour Organisation has an essential part to play in building up a stable international peace based upon co-operation in pursuit of social justice for all peoples everywhere;

The representatives of the Governments, employers, and workpeople of the American Continent:

Proclaim their unshaken faith in the promotion of international co-operation, and in the imperative need for achieving international peace and security by the elimination of war as an instrument of national policy, by the prescription of open, just, and honourable relations between nations, by the firm establishment of the understandings of international law as the actual rule of conduct among Governments, and by the maintenance of justice and the scrupulous respect for treaty obligations in the dealings of organised peoples with one another; and

Pledge the unwavering support<sup>1</sup> of the Governments and peoples of the American Continent for the continuance with unimpaired vigour of the efforts of the International Labour Organisation to accomplish its high purpose of achieving social justice.

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<sup>1</sup> Second Labour Conference of the American States which are Members of the International Labour Organisation, Havana (Cuba), 21 November - 2 December 1939, *Record of Proceedings*, p. 257.

## Resolution of the Second Labour Conference of American States concerning Fair Labour Standards for the Western Hemisphere<sup>1</sup>

*30 November 1939*

Whereas in view of present circumstances it is to-day more desirable and necessary than ever to establish a close and sincere economic and financial co-operation between the nations of the American Continent;

Whereas it is increasingly recognised that stable prosperity cannot be achieved without building up standards of life adequate to ensure reasonable conditions of health and well-being for the masses of the population;

The Second Labour Conference of American States which are Members of the International Labour Organisation:

1. Affirms, in view of the importance of the closest economic and financial co-operation between the nations of the American Continent, its conviction that such co-operation cannot bring about any stable prosperity unless it takes the form of a sustained effort to raise the standard of life of the masses throughout the Western Hemisphere;

2. Considers that in view of the relation between the volume of international trade and levels of employment and of wages an increase in international trade activity is calculated to promote an improvement in standards of life by increasing the volume of trade and so increasing employment and wages;

3. Urges that one of the essential objects of economic and financial co-operation between the nations of the American Continent should be to establish and maintain fair labour standards for the Western Hemisphere, which might be based in large measure upon the principles proclaimed by the Constitution of the International Labour Organisation, upon the International Labour Code consisting of the Conventions and Recommendations adopted by the International Labour Conference, and upon the resolutions adopted by the First and Second Labour Conferences of American States;

4. Emphasises the special importance for the above purpose of:

- (a) the establishment by Governments of adequate machinery to protect the right of association for all lawful purposes by the employed as well as by the employers;
- (b) the establishment of legal minimum rates of wages adequate to enable all classes of workers to maintain a reasonable standard of life;
- (c) the establishment of legal maxima for hours of work, which should in no case be based upon a standard working week longer than forty-eight hours, and should wherever possible, and in such cases as may be possible, be based upon the conception that the standard to be aimed at, where it has not already been attained, is that of the principle of the forty-hour week, applied in such a manner that the standard of living is not reduced in consequence;
- (d) the abolition of child labour, the fixing of an age, which should in no case be lower than 14, and should where possible be 16, as the minimum age for admission to employment, the imposition of such

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<sup>1</sup> Second Labour Conference of the American States which are Members of the International Labour Organisation, Havana (Cuba), 21 November - 2 December 1939, *Record of Proceedings*, pp. 262-263.

limitations on the labour of young persons as shall permit the continuation of their education and ensure their proper physical development, and the organisation of adequate social provision for the welfare of children and young persons; and

- (e) the provision of an adequate and effective system of inspection in order to ensure the enforcement of the laws and regulations for the protection of the employed;

5. Considers it to be desirable that all credit agreements concluded between the nations of the American Continent should make provision for the effective enforcement of fair labour standards upon all work financed in virtue of such agreements;

6. Places it on record that it would welcome the participation in the effort to achieve closer economic and financial co-operation among the nations of the American Continent of the accredited representatives of employers and work-people who participate in the Labour Conference of American States; and

7. Requests the Governing Body of the International Labour Office to communicate this resolution to the Governments of all the American States and to the Inter-American Financial and Economic Advisory Committee.

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## Resolution of the Third Meeting of the Ministers of Foreign Affairs of the American Republics concerning Post-War Problems<sup>1</sup>

*Rio de Janeiro, 28 January 1942*

### XXV. POST-WAR PROBLEMS

Whereas:

1. World peace must be based on the principles of respect for law, of justice and of co-operation which inspire the nations of America and which have been expressed at Inter-American meetings held from 1889 to date;

2. A new order of peace must be supported by economic principles which will ensure equitable and lasting international trade with equal opportunities for all nations;

3. Collective security must be founded not only on political institutions but also on just, effective, and liberal economic systems;

4. It is indispensable to undertake the immediate study of the bases for this new economic and political order; and

5. It is an imperative necessity for the countries of America to increase their productive capacity; to secure, from their international trade, returns which will permit them adequately to remunerate labour and improve the standard of living of workers; to protect and preserve the health of their peoples and develop their civilisation and culture;

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<sup>1</sup> *The American Journal of International Law*, Vol. 36, No. 2, July 1942, Official Documents, pp. 85-86.



The Third Meeting of the Ministers of Foreign Affairs of the American Republics

Resolves:

1. To request the Governing Board of the Pan American Union to convoke an Inter-American Technical Economic Conference charged with the study of present and post-war economic problems.
2. To entrust the Inter-American Juridical Committee with the formulation of specific recommendations relative to the international organisation in the juridical and political fields, and in the field of international security.
3. To entrust the Inter-American Financial and Economic Advisory Committee with a similar function in the economic field, to make the necessary preparations for the Inter-American Technical Economic Conference, referred to in the first paragraph of this resolution.
4. To request the Pan American Union to appoint an Executive Committee to receive such projects as the American nations may present, and to submit said projects, respectively, to the Inter-American Juridical Committee and to the Inter-American Financial and Economic Advisory Committee.
5. To request the Pan American Union to direct this Executive Committee to submit the recommendations of the Inter-American Juridical Committee to the Governments of the American Republics so that the conclusions reached may be adopted at a subsequent Meeting of Ministers of Foreign Affairs.
6. To request the Pan American Union to determine, in agreement with the Governments of the American Republics, the date and place of meeting of the Inter-American Technical Economic Conference, referred to in the first paragraph of this resolution.

## Preliminary Recommendation on Post-War Problems<sup>1</sup>

*Formulated by the Inter-American Juridical Committee,  
5 September 1942*

### CONCLUSIONS

The Inter-American Juridical Committee, taking into account the facts above set forth, indicating what the Committee believes to be the main causes of the breakdown of international law and order, and believing it necessary to make its contribution to the determination of the general principles upon which law and order should be based in the future, to the end that a just and permanent peace may be established among the nations, proposes to the Governments of the American Republics the following conclusions:

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### XII. *Elimination of Economic Imperialism*

The community of nations, acting through its appropriate agencies, must supervise the exploitation of undeveloped territories.

<sup>1</sup> *Preliminary Recommendation on Post-War Problems*, Pan American Union, Nov. 1942.

These territories must be administered in accordance with the principle of equality of treatment, so that all States may have equal access to the raw materials which they produce and may be able to sell their manufactured goods in the markets of these territories upon equal terms.

A system of free competition should be established in these territories which will prevent particular States from having exclusive opportunities for the investment of capital and for other forms of economic enterprise, and which will promote the gradual progress of these territories and the well-being of their native populations, while at the same time protecting the interests of the international community.

### *XIII. Elimination of Economic Nationalism*

Nations must recognise their economic interdependence, and that in consequence their right to regulate their own economic activities should not be without limitations.

The future international organisation must give special attention to the co-ordination of world economy, and must endeavour to obtain concrete solutions for the problems which it presents, seeking a means of reconciling national self-determination with the predominant interest of the whole community of nations.

Nations must make every effort to lower tariff barriers and remove other restrictions upon commerce, and to increase as far as possible the free and full exchange of articles and services among the members of the international community, so as to lessen as far as possible the inequalities of natural resources and to promote the mutual well-being of their respective peoples.

In order to bring about economic disarmament the system of ruthless competition and trade rivalries must be eliminated, and in its place must be substituted measures of co-operation looking to the general welfare of the international community.

### *XIV. Elimination of the Social Factors of War*

Nations must recognise that social justice and the improvement of the conditions of life for the individual citizen have a relation to the maintenance of peace and for that reason must play an essential part in any plans of international reconstruction.

Nations must endeavour to raise the standard of life of their citizens and must guarantee to each individual a degree of economic security which will permit him to live in the sufficiency and freedom from fear necessary to enable him to develop his personality and to enjoy the benefits of spiritual and material freedom to which all men have a right.

The realisation of these objectives is primarily the task of each separate State; but only by parallel international action can they be adequately secured.

Nations must organise their national industry so as to meet the needs of all the people and not merely the interests of privileged groups; and while having in mind the interests of their own peoples they must also give consideration to the interests and necessities of the international community.

The social services of the new international organisation must be expanded so as to include tasks which are beyond the reach of the individual State. The work of the International Labour Office must be continued to the fullest possible extent.

Rio de Janeiro,  
September 5, 1942.

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## The Declaration of Santiago de Chile, 1942<sup>1</sup>

*16 September 1942*

The First Inter-American Conference on Social Security,  
Assembled in Santiago de Chile from 10 to 16 September 1942, at the invitation of the Government of Chile, under the auspices of the Inter-American Committee to Promote Social Security,

In the presence of delegates from twenty-one countries of the Continent,  
With the participation of a tripartite delegation from the Governing Body of the International Labour Office and a delegation from the Pan American Sanitary Bureau,

Considering:

That freedom and dignity are essential and inalienable attributes of human personality;

That, to be able to enjoy fully the basic freedoms of thought, expression and activity, every man and woman must be afforded physical and economic protection against social and economic risks through properly organised social action;

That it is the common desire of the American nations to increase constantly the moral and material welfare of individuals and families;

Adopts the following Declaration:

### I. SOCIAL AND ECONOMIC SECURITY

1. Society must find a new inspiration in a movement of solidarity of all men and nations to abolish poverty and secure the means of living in health and decency.

2. The potentialities of economic and technical resources must be turned to account in order to satisfy the necessities of life of the greatest number of persons and peoples everywhere.

3. The economic objective will not suffice to evoke a hearty and generous co-operation unless identified with the moral objective of a just social order, which equitably distributes the fruits of production.

4. Each country must create, conserve and build up the intellectual, moral and physical vigour of its active generation, prepare the way for its future generations, and support the generation that has been discharged from productive life. This is social security: a genuine and rational economy of human resources and values.

5. The provision of such basic security will promote personal effort and initiative and improve the structure of society by the elimination of the causes of social insecurity.

### II. SOCIAL INSURANCE

6. Social insurance, as an expression of social security, is called upon:

- (a) To organise the prevention of risks the occurrence of which deprives the worker of his earning capacity and means of subsistence;
- (b) To restore, as quickly and fully as possible, the earning capacity lost or reduced by reason of sickness or accident;

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<sup>1</sup> *International Labour Review*, Vol. XLVI, No. 5, Nov. 1942, pp. 611-612.

- (c) To supply the means of subsistence in case of cessation or interruption of gainful activity as the result of sickness or accident, temporary or permanent disability, unemployment, old age, and premature death of the breadwinner.

### III. A CONTINENTAL PROGRAMME

7. A policy of social security for the Americas should comprise measures for promoting employment and maintaining it at a high level, for increasing the national income and sharing it more equitably, and for improving health, nutrition, clothing, housing and general and vocational education for workers and their families.

8. The health, capacity and welfare of the workers of any one American nation is a concern of all American nations, and therefore concerted action by social security institutions is imperative for the preservation of their human assets as a guarantee of continental defence and integrity.

9. This action implies for the American nations the necessity of establishing a common reservoir of all things required for maintaining the continuity of their social policy, for preserving their unity, and for meeting any eventuality in this connection.

10. A continental agreement entered into by the social security institutions will forge new links of solidarity by solving problems in which the fate and conscience of all peoples are deeply engaged, and will strengthen the belief in the future of the Americas.

### IV. A WORLD ASPIRATION

11. The decisions of the Americas with a view to a new structure of social security represent a contribution to world solidarity in seeking the well-being of peoples and the attainment and maintenance of peace.

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# CONSTITUTIONAL INSTRUMENTS



# Europe

## ALBANIA

### Fundamental Statute of the Kingdom of Albania<sup>1</sup>

1 December 1928

#### PART VI. THE RIGHTS OF CITIZENS

191. All Albanians are free born and live in freedom.

In Albania a person can neither be bought nor sold, and all bought persons or slaves are free the moment they set foot on Albanian soil.

192. Freedom is the natural right of all persons and is circumscribed by the limits of the freedom of others. This limit is determined only by the law.

194. All citizens are equal before the law, and without exception are obliged to respect the law.

195. All citizens enjoy equal political and civil rights and are accepted in all military and civil offices, except in such cases as are set out in the law.

197. Freedom of speech and of the press is guaranteed, and a censorship may not be instituted except in case of war mobilisation or other extraordinary event defined by the law.

The regulation of the press, the confiscation of press matter and the prosecution of the press are determined by law.

Only Albanian subjects may publish newspapers in Albania.

198. The right to property of whatever kind is inviolable, and property may only be expropriated after it has been ascertained that it is in the interests of the public to do so, and a reasonable value determined by a special law is paid.

199. The right of forming associations and holding peaceful meetings unarmed is guaranteed in conformity with the law.

Associations may not be dispersed for transgressing the laws unless an order to that effect be given by the Courts.

Police officials may be present at public meetings. Open-air meetings may be stopped if they endanger public order.

200. Albanian citizens have the right to form societies within the limits of the law. The use of this right is not subject to any preliminary measure.

202. No hindrance can be placed in the way of travelling except as provided by law.

203. Freedom of thought and of conscience is guaranteed, but the expression of thoughts in one way or another must be in conformity with the law.

204. Only Albanian subjects may be employed in Government positions. Foreigners may be employed as specialists, but their contracts may not exceed 5 years' duration.

206. The primary education of all Albanian subjects is obligatory, and the State schools are free.

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<sup>1</sup> English translation from *British and Foreign State Papers*, Vol. 129, 1928, Part II, pp. 12-35; for Albanian text, see *Fletorja Zyrtare*, 13 Dec. 1928.

207. Only Albanian subjects may open private schools of various kinds, provided they conform to the law, the principles and the programmes adopted by the State or the State schools and are always under the effective control of the Government.

Foreigners may open only technical and agricultural schools with theoretical and practical programmes in conformity with the laws.

Albanian religious communities may open religious schools with the permission of the competent Ministry and in accordance with the law. The number of schools required for each community and the number of students in these schools shall be fixed by the competent Ministry by decisions of the Council of Ministers.

208. Confiscation is forbidden, and cannot take place except in conformity with the laws and by a decision of a court.

209. Forced labour is forbidden. In case of war, the State has the right of requisition, and by special law to make internal forced loans.

210. No Albanian subject can be expelled from Albania.

Within the limits of the State, no Albanian subject may be interned or compelled to adopt an obligatory residence except in the cases provided by the law.

212. All persons, groups of persons or associations have the right to address themselves to the competent authorities or to Parliament verbally or in writing for the protection of their private or public rights.

The authorities are obliged to reply in writing as soon as possible to all private questions addressed to them.

#### PART VII. VARIOUS PROVISIONS

215. All foreigners in Albania enjoy the right of protection for their persons and property except in cases provided by the law.

Foreigners can in no way acquire a title to rural property, nor can they own real estate in such areas adjacent to the State frontiers or the sea as are fixed by Royal Decree on the decision of the Council of Ministers. This provision does not prejudice the rights already acquired.

Foreigners have only the right to the value of such lands when sold, and can be owners only of so much as is necessary for the erection of factories or for purposes of communications.

219. The State recognises associations formed in accordance with the law.

222. Crown land is the property of the State, and the provisions of the Civil Code apply to it.

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#### ANDORRA

*The provisions of the Plan of Reform adopted in the Valleys of Andorra on 31 May 1866<sup>1</sup> are all organisational and procedural in character and do not formulate any principles of social or economic policy.*

<sup>1</sup> There is a French text in DARESTE: *Les constitutions modernes*, 4th edition, Vol. I, 1929, pp. 277-283.



## AUSTRIA

### Constitution<sup>1</sup>

24 April 1934

(Promulgated by a Proclamation of the Federal Government on 1 May 1934)

In the name of the Almighty God, source of all law, the Austrian People receives this Constitution, based on the corporative principle, for its Christian German Federal State.

#### CHAPTER I. FUNDAMENTAL PROVISIONS

8. The generally recognised rules of international law are held to be an integral part of the law of the Federation.

#### CHAPTER II. GENERAL RIGHTS OF CITIZENS

15. (3) Every Federal citizen has the same rights and duties in each Province as the citizens of the Province itself.

16. (1) All Federal citizens are equal before the law. The laws shall not establish any discrimination among citizens except for clearly specified concrete reasons. In particular, privileges of birth, rank and class are abolished.

(2) Except as otherwise provided by statutory provisions, women have the same rights and duties as men.

(3) Public offices are open equally to all citizens who are loyal to their Province and possess the qualities requisite for the offices in question.

(4) The exercise of political rights is fully guaranteed to public employees in so far as this Constitution does not provide to the contrary.

17. Freedom of choice of domicile for property and persons is guaranteed to all citizens of the Federation throughout the whole of its territory. The law shall specify the exceptions to this.

18. (1) The emigration of Federal citizens shall not be restricted otherwise than by a Federal Act.

(2) The Federation shall protect all its citizens as against aliens.

19. (1) Individual liberty is guaranteed. The public authorities shall not have power to interfere with individual liberty or to suppress it except in pursuance of legislation.

24. Federal citizens are entitled to assemble and to form associations subject to the statutory restrictions.

25. Every Federal citizen has the right to address petitions and complaints to the competent authority. This right shall not be exercised collectively except by bodies corporate or associations recognised by law.

26. (1) Every Federal citizen has the right, subject to the statutory restrictions, to express his opinions freely, in speech, in writing, in print, by picture, or in any other manner.

(2) Legislation may be enacted in particular:

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<sup>1</sup> English translation by the International Labour Office; for German text, see *Bundesgesetzblatt*, 1934, Part I, No. 239. For an English translation of the text of the Constitution of 1 Oct. 1920, as revised 7 Dec. 1929, see *British and Foreign State Papers*, Vol. 131, 1929, Part II, pp. 3-54; for the German text, see *Bundesgesetzblatt*, No. I, 2 Jan. 1930.

- (a) To grant to the authorities right of previous censorship of the press, the theatre, the radio, the cinematograph or other similar public performances, for the purpose of suppressing attacks on peace, order and public safety or violations of the law; this control shall comprise the right to prohibit such manifestations and performances;
- (b) To take measures to prevent immorality and indecency;
- (c) To take measures for the protection of young persons;
- (d) To take measures to safeguard all the interests of the people and the State.

27. (1) All inhabitants of Austria who are capable of professing a religion enjoy complete freedom of religious conviction and liberty of conscience and also freedom of worship in their own homes or in public, in so far as this is not incompatible with public order or morals.

(2) The profession of a religious faith shall not authorise any infraction of civic duties. No discrimination on the ground of religious belief shall be made as regards the enjoyment of civic and national rights or the appointment to public offices, employments and dignities. Exceptions to the above principles may be made by special laws in the case of teachers.

(3) No one shall be compelled to perform any religious rite or take part in any religious ceremony. This rule shall not apply to obligations imposed by family authorities, education authorities or other lawfully constituted authorities. Further, it shall not apply to obligations concerning attendance at religious ceremonies arising out of the duties of a public office.

31. (1) The State shall protect and encourage science and the fine arts.

(2) The sciences and instruction therein are free. This provision is without prejudice to the obligations arising out of the duties of public offices.

(3) All Federal citizens and all bodies corporate of the nation are authorised to found establishments for instruction and education and to give scholastic instruction, provided that the said establishments satisfy the conditions prescribed by law for this purpose.

(4) Instruction given at home shall not be subject to any provision of this kind.

(5) Every church or religious society recognised by law has the right to give religious instruction to its members in the schools and to exercise direct supervision over such instruction.

(6) Without prejudice to the rights granted to it by article 30, the State has the right to exercise superior direction and supervision over all scholastic establishments and all religious institutions and institutions for national education and training. It is the particular duty of the State to see that children receive religious and moral training and are given the scientific instruction requisite to enable them to become capable men and good citizens.

32. (1) Every Federal citizen is entitled to free choice of occupation.

(2) Facilities shall be provided by law for the control by each industry of its own affairs under the supervision of the State.

(3) Vocational training and engagement in the various occupations shall be governed by the law and by the rules of the public industrial organisations which are issued in pursuance of the law.

33. (1) Property is inviolable. Expropriation against the wish of the proprietor shall not be enforced except in the cases and under the conditions prescribed by law.

(2) Every Federal citizen may acquire real estate of all kinds and dispose of it freely. The law may prescribe exceptions for the purpose of safeguarding public interests.

(3) It shall be lawful for any person to discharge any debt and liberate himself from any charge on real estate incurred in virtue of joint ownership. In future no real estate shall be burdened by any such charge not liable to redemption.

## CHAPTER III. THE FEDERATION AND THE PROVINCES

34. (1) The Federal authorities are responsible for legislation and administration in so far as they are not effected by organs of self government within their respective spheres of operation, in virtue of special laws as regards the following matters:

1. The Federal Constitution; the election of the Federal President; the convening of the Federal Council of Mental and Moral Development and the Federal Economic Council; establishment, organisation and duties of the corporations of the liberal professions and the public services; general organisation and supervision of corporations in other branches of activity; activity of public officials in private industry; popular votes under the Federal Constitution; procedure with respect to the Constitution and administration; emblems of the sovereignty of the Federation; honorary distinctions of the Federation; protection of titles and uniforms; nationality;
2. Foreign affairs, including political and economic representation abroad, and especially the conclusion of State treaties; trading with foreign countries in goods and livestock; customs;
3. Entry into and departure from Federal territory; immigration and emigration; passports; deportation; expulsion; banishment, extradition, and the transportation of repatriated persons through the Federal State;
4. Federal finance; management of Federal moneys; issue and conversion of Federal loans; the estimates; Federal accounts; monopolies;
5. Questions relating to currency, credit, the stock exchange and banks (including savings banks); weights and measures; the standards and stamping of precious metals;
6. Private law, including the law of associations and the law relating to other economic associations and leagues; criminal law applicable by the law courts; special provisions relating to administrative disputes in connection with the matters mentioned in this article; procedure before the law courts and other judicial authorities; the administration of justice; public institutions for the settlement of disputes extra-judicially, in so far as these institutions are not covered by article 6, paragraph (1), No. 8, or are not restricted as regards competence to matters subject to Provincial legislation; amicable agreements or procedure before the courts in disputes in private law; institutions for the protection of society against criminals and individuals who are subject to supervision or dangerous in any respect, such as penal labour establishments and the like; copyright; the press; insurance; expropriation for purposes of public health and expropriation for any other reasons, in so far as it does not relate to matters within the jurisdiction of the Provinces; matters relating to notaries, advocates, and members of other similar professions;
7. The maintenance of public order, peace and security (with the exception of the local police); the right of association and assembly; matters relating to the registration of births, marriages and deaths; changes of name; the police supervision of aliens and registration of arrivals in the country; arms, munitions, explosives, firearms; bookmakers, totalisers, and the suppression of fraudulent betting;
8. Matters relating to small-scale industry, large-scale industry and commerce; public agencies and private brokerage undertakings; the suppression of unfair competition; invention patents and the protection of models, trade marks and other indications on goods; matters relating to patent agents; civil engineers and technicians; public warehouses, public establishment for the supervision of weights and measures; the protection of the interests of a Province in the regulation of production and trade;

9. Transport by rail, water or air; mechanically propelled vehicles; matters relating to roads which on account of their importance for transit have been declared by a Federal law to be Federal highways; police regulation of rivers and shipping; the post office, telegraphs and telephones; the radio; tourist traffic in so far as it concerns the whole Federal territory;
10. Mines, forests, including pasturage; water rights, the regulation of waterways, in the interests of shipping and lumber floating or for the purpose of preventing the danger of floods by means of diversions; the canalisation of streams; the construction and maintenance of waterways; electricity; boilers and motors; surveying;
11. Labour legislation, and the protection of wage-earning and salaried employees, except as regards wage-earning employees in agriculture and forestry; social insurance;
12. Public health, excluding matters relating to burials and funerals; the municipal health services and welfare institutions; maternity schools; hospitals and nursing homes administered by the Federation; the medical supervision of other hospitals and nursing homes; health resorts and medicinal springs; veterinary medicine; supervision of cattle and meat; food supply, including the supervision of foodstuffs;
13. The protection of plants against diseases and noxious insects which threaten the existence of whole branches of agriculture and forestry;
14. General matters relating to science and arts and religion; scientific and technical services in archives and libraries installed in the offices and establishments of the Federation; matters relating to artistic and scientific collections, establishments and institutions belonging to the Federation; matters relating to the national theatres; the protection of monuments; the census of the population and other statistics, in so far as they do not relate exclusively to the interests of a particular Province only; charitable institutions and funds, except in the case of foundations and funds for the benefit of citizens or inhabitants of a particular Province only;
15. Matters relating to the Federal Police and Constabulary; the creation and organisation of all other police corps, including their equipment and their right to use their arms;
16. Military questions, including measures relating to the placing of discharged soldiers in the public services; war injuries and assistance for members of the defence forces and their surviving dependants; the maintenance of war cemeteries; any measures which, on account of or as a result of war, appear necessary to ensure the unity of economic policy and in particular to ensure the supply of necessities to the population;
17. All institutions belonging to Federal authorities and other Federal administrative departments; the conditions of service of public officials in so far as they are subordinate to the sovereignty of the Federation; the conditions of service of public officials who are lawfully appointed to posts with foundations, funds, establishments and undertakings attached to Federal administrative departments; the conditions of service of lawfully appointed public officials of the central corporative administration.

(2) Federal Acts promulgated in pursuance of paragraph (1) may empower the Provincial Legislatures to enact legislation for the administration of specific provisions. In this case the provisions of article 39, paragraph (2), are applicable, *mutatis mutandis*. The Federation is responsible for the administration of any legislation enacted in such cases. Nevertheless, the administrative orders, in so far as they relate to the administration of Provincial Acts shall be subject to a preliminary agreement with the Provincial Governments concerned.

(3) Federal Acts concerning the law governing water courses and electricity may contain a clause authorising the Provinces to issue regulations and orders relating to water courses and electricity.

(4) In matters relating to social insurance an appeal shall lie under a Federal Act, to arbitration boards, which shall as a rule be attached to the Council of the Provincial Governor to assist him in his local sphere of action; the members of the boards shall consist of judges and administrative officials with legal qualifications. Where necessary, assistants may take part in the discussions in addition to the said members. In the exercise of their duties the members (assistants) shall not be bound by any rules. Awards of the arbitration boards shall not be annulled or modified by administrative procedure. Further details respecting the setting up, competence and operation of the arbitration boards shall be laid down by a Federal Act.

36. (1) The Federal Legislature is responsible for legislation respecting principles, and the Provinces are responsible for the enactment of laws respecting administration and for administration itself — in so far as it is not effected by organs of self government under the supervision of the Province — as regards the following matters:

1. Poor relief; hospitals, nursing homes, health resorts and medicinal springs, in so far as they are not covered by the provisions of article 34, paragraph (1), No. 12;
2. Labour legislation, and the protection of wage-earning employees, in so far as wage-earning employees in agriculture and forestry are concerned;
3. Land reform, in the sphere of agriculture and forestry;
4. Protection of plants against disease and noxious insects, in so far as this is not covered by article 34, paragraph (1), No. 13;
5. The policing of roads, except in the case of Federal roads covered by article 34, paragraph (1), No. 9;
6. Expulsion and deportation from one Province to another;
7. Right of naturalisation;
8. Establishment, organisation and duties of the corporative administration in the Provinces, except in relation to the liberal professions and the public services which are covered by article 34, paragraph (1), No. 1;
9. The conditions of service of lawfully appointed public officials in the service of a Province; the conditions of service of lawfully appointed public officials of communes and federations of communes; the conditions of service of lawfully appointed public officials of the corporative administration in the Provinces.

(2) In matters relating to land reform (paragraph 1, No. 4) decisions shall be issued by the Provincial Courts and, in the last instance, by commissions consisting of a chairman and (as members) judges, administrative officials and experts; the commission which decides in the last instance shall be constituted in the competent Federal Ministry. The constitution, regulation and procedure of the commissions, and the principles governing the constitution of any other authorities to deal with land reform, shall be laid down by a Federal Act. These commissions and authorities may be convened for the purpose of the administration of acts in matters relating to agriculture in a Province which is not covered by the land reform legislation, and also in all other matters closely connected with land reform; this shall be done under a Federal Act if the legislation concerning the matters in question is vested in the Federation, or under a Provincial Act if the legislation in question is vested in the Provinces.

37. (1) Legislation relating to schools, education and instruction is vested in:

1. The Federation exclusively as regards:

- (a) High schools of all kinds;
- (b) Secondary schools and training colleges;
- (c) Secondary schools for art, industry, commerce and agriculture, schools of forestry and all vocational schools for commerce and industry;

- (d) The conditions of service and the legal status of all the teaching staff of the Federation;
- (e) Supervision of the schools specified under (a) and (c) above;

2. The Federation as regards principles, and the Provinces as regards the administration of the principles, in the case of:

- (a) Matters relating to all other schools and educational establishments, with the exception of elementary schools of agriculture, which shall be subject to Provincial legislation;
- (b) The supervision of the schools mentioned under No. 1 (b) and No. 2 (a);
- (c) The conditions of service and legal status of the officially and lawfully appointed teaching staff of elementary and higher elementary schools, and of other schools within the jurisdiction of the Provinces and the communes;
- (d) The organisation of the education authorities mentioned in articles 121 and 144.

(2) Executive powers in matters relating to schools, education and public instruction are vested in the Federation, subject to the following reservations:

- (a) The Provinces shall have the right to intervene in matters relating to the establishment and maintenance of elementary and higher elementary schools and the appointment of the teaching staff mentioned in paragraph (1), No. 2, (c).
- (b) An agreement shall be made with the Provinces in the case of decisions of education authorities which entail upon the Provinces charges not based on any law.
- (c) Executive powers relating to elementary schools of agriculture, and continuation schools for industry and agriculture, are vested in the Province, in so far as the laws of the Province do not delegate this power to the education authorities or to other Federal authorities or in so far as the provision laid down under (b) is not applied.
- (d) In matters relating to public instruction, executive powers as regards establishments and institutions for popular cultural development may be vested by law in the City of Vienna, subject to the supreme supervision of the Federation.
- (e) The law shall specify to what extent executive powers are to be vested in the organs of self government.

(3) The right granted to the State under article 31, paragraph (6), to exercise supreme direction and supervision over all schools and educational establishments of all kinds is vested in the Federation.

43. (1) The Provinces are bound to take the measures necessary for the administration of treaties; if a Province fails to carry out its obligations in due time, its competence in the matter, in particular with regard to the enactment of the necessary legislation, shall be transferred to the Federation.

(2) Similarly, in the case of the administration of agreements with foreign States, the right of supervision is vested in the Federation even as regards matters within the jurisdiction of the Provinces. In such matters the Federation has the same rights in relation to the Provinces as in matters under the direct jurisdiction of the Federation (article 116).

## CHAPTER IV. FEDERAL LEGISLATION

*Part I. Federal Legislative Bodies*

44. The legislative powers of the Federation are vested in the Federal Diet (*Bundestag*) (legislative body), which shall pass bills which have been previously discussed by the Council of State (*Staatsrat*), the Federal Council for Mental and Moral Development (*Bundeskulturrat*), the Federal Economic Council (*Bundeswirtschaftsrat*) and the Council of the Provinces (*Länderrat*) (advisory bodies).

.....

*(A) Advisory Bodies*

1. *Council of State* (*Staatsrat*).
2. *Federal Council for Mental and Moral Development* (*Bundeskulturrat*).

47. (1) The Federal Council for Mental and Moral Development shall consist of thirty to forty representatives drawn from the churches and religious societies recognised by law, from the teaching staff of establishments for education and public instruction and from the field of science and art.

(2) Any Federal citizen may be a member of the Federal Council for Mental and Moral Development, provided that he has attained the age of twenty-six years and is not disqualified for membership by the Federal Act mentioned in paragraph (4).

(3) In the composition of the Federal Council for Mental and Moral Development, care shall be taken to ensure in particular that, as regards the representation of national education, the parents of pupils are duly represented.

(4) The appointment of the members of the Federal Council for Mental and Moral Development (Councillors) shall be regulated by a Federal Act in accordance with principles ensuring that the Council shall consist of patriotic members.

*3. Federal Economic Council* (*Bundeswirtschaftsrat*).

48. (1) The Federal Economic Council shall consist of seventy to eighty representatives drawn from the various corporations and occupations.

(2) Any Federal citizen may be a member of the Federal Economic Council, provided that he has attained the age of twenty-six years and is not disqualified for membership by the Federal Act mentioned in paragraph (3).

(3) The appointment of the members of the Federal Economic Council (councillors) shall be regulated by a Federal Act in accordance with principles ensuring that the Council shall consist of patriotic members.

(4) The said Act shall provide for the following main industrial groups by which representatives are to be appointed:

- Agriculture and forestry;
- Large-scale industry and mining;
- Small-scale industry;
- Commerce and communication;
- The financial, banking and insurance systems;
- The liberal professions; and
- The public services.

(5) The representatives to be appointed by the various corporative industrial groups shall be allotted to the main groups with due regard to the number of

persons belonging to them (whether working on their own account or not) provided that each main group shall have at least three representatives.

4. *Council of the Provinces* (Länderrat).

(B) *Federal Diet* (Bundestag)

50. (1) The Federal Diet shall consist of twenty delegates of the Council of State, ten delegates of the Federal Council for Mental and Moral Development, twenty delegates of the Federal Economic Council and nine delegates of the Council of the Provinces.

(2) The delegates of the Council of State, the Federal Council for Mental and Moral Development and the Federal Economic Council shall be selected by ballot from among the members of the said Councils in conformity with the provisions of the Act for the administration of these provisions. The presidents of the said Councils must be appointed members of the Federal Diet. The members of the Council of the Provinces, appointed to represent the various Provinces (or the City of Vienna) on the Federal Diet, shall be appointed for each Province (or for the City of Vienna) by the Governor of the Province or the Mayor of the City of Vienna, as the case may be.

CHAPTER VII. ADMINISTRATION OF THE PROVINCES

120. (1) The matters specified in the following list may be administered directly by the Federal authorities within the limits of the sphere of action prescribed by the Constitution:

- (a) Delimitation of frontiers;
- (b) Traffic in goods and livestock with foreign countries;
- (c) Customs;
- (d) Federal finance;
- (e) Monopolies;
- (f) Weights and measures; standards and the stamping of precious metals;
- (g) Technical tests and experiments;
- (h) Justice;
- (i) Invention patents, protection of patents, trade marks and other indications of origin;
- (k) Matters relating to posts, telegraphs and telephones and the radio;
- (l) Mines;
- (m) The regulation and maintenance of the Danube, the March and the Thaya;
- (o) Construction and maintenance of canals;
- (p) Labour legislation and the protection of wage-earning and salaried employees;
- (q) Social insurance;
- (r) Surveying;
- (s) Scientific and technical services in archives and libraries attached to State offices and establishments, matters relating to artistic and scientific collections; establishments and institutions belonging to the Federation;
- (t) Matters relating to the Federal police and constabulary;
- (u) Military matters;
- (v) Relief of ex-service men and their families;
- (w) If circumstances so require:
  1. Entry into and departure from Federal territory;
  2. Deportation from the commune, expulsion, banishment and extradition as well as the conduct of persons to the frontier;



3. Passports, police registrations, arms, munitions and explosives;
4. Maintenance of public tranquillity, order and safety, with the exception of the local police;
5. The press;
6. Matters relating to associations and assemblies and the police control of aliens.

(2) Special Federal authorities may be set up for matters other than those specified in paragraph (1), subject to the consent of the Provincial Governments of the Provinces concerned.

(3) No local body may form or maintain a police force within the local sphere of competence of a Federal police authority to which a Federal constabulary force has been attached. The disbanding of police forces established or maintained in violation of this provision falls within the executive powers of the Federation.

(4) The establishment of Federal police authorities, the definition of their local sphere of competence and of their actual administrative sphere, the exercise of executive powers by Federal police authorities under article 34, and the issue of special service regulations for the said bodies, are vested in the competent Federal Minister. In so far as any such authority is responsible for questions within Provincial competence, the relevant order shall not be promulgated until the matters in question have been transferred to the Federal police authority in pursuance of an Act of the Province concerned. The repeal of the Provincial Act entails an annulment of the order.

(5) If it becomes necessary in particular communes to take special measures for dealing with a menace to public peace and order, the competent Federal Minister may appoint special Federal bodies to take the said measures so long as the danger continues.

121. (1) In matters concerning schools, education and public instruction, with the exception of universities and similar establishments, executive powers within the Provinces are vested, subject to the authority of the competent Federal Minister, in the education authorities (Provincial, district and communal inspectors of schools, Council for Mental and Moral Development) who represent the interests of the schools and education. The Provincial and district inspectors of schools shall be directly attached to the Federal authorities. The Provincial Governor shall be president of the Provincial education committee. An act shall be issued to prescribe his sphere of action; he shall appoint his substitute and may dismiss him. The district administrative officer shall be chairman of the district education committee; the mayor shall be chairman of the communal education committee. The Province shall be adequately represented on the Provincial and district education committees and the commune shall be so represented on the communal education committee.

(2) The chairman must adjourn provisionally the carrying out of decisions which appear to him to be contrary to the law; he must also comply with the instructions of the superior education authorities.

(3) The instructions of the superior education authorities must be addressed to the chairmen of the subordinate education authorities. The latter must carry out these instructions [paragraph (1) of article 11] and shall not have the right to appeal against them. Every superior education authority is authorised, in the event of failure to comply with its instructions, to take the measures requisite in pursuance of the said instructions; measures taken by a subordinate education authority contrary to the said provisions shall be declared null and void by the superior education authority.

(4) Executive power with respect to matters relating to national instruction in the Provinces is vested in a special body appointed for the purpose under the direct authority of the chairman of the Provincial education committee.

(5) If necessary, the competent Federal Minister may, personally or through

the officials of the Federal Ministry under his direction, satisfy himself in particular cases respecting the conditions and working of those secondary and primary educational establishments which are not administered directly by the Federal Ministry. The inspection reports made by the officials of the Ministry must be communicated to the Provincial education committee (in Vienna to the chairman of the city education committee).

#### CHAPTER VIII. ADMINISTRATIVE DISTRICTS, COMMUNES AND ASSOCIATIONS OF COMMUNES

125. The communes constitute autonomous economic bodies; within the limits fixed by the law they have the right to manage the business of the commune, to levy taxes, to possess property of all kinds, to purchase and dispose of property and to engage in economic undertakings which promote the general interests of the inhabitants of the commune concerned.

127. (1) In communes where the composition of the population renders this possible, the communal council shall consist of representatives of churches and religious societies authorised by law, education authorities, the world of science and art, and representatives of industrial corporations in the commune.

(2) In the case of communes where the composition of the population does not permit of the constitution of the communal council in this manner, a Provincial Act shall be enacted to prescribe the organisation of communal representation, based as far as possible on the provisions laid down in paragraph (1).

(3) Employees of a commune or of the establishments and undertakings belonging to a commune, persons performing military service, professional soldiers, State employees and members of the police force are disqualified for membership of the communal council.

(4) The communal council may appoint from amongst its members special administrative sub-committees for particular administrative purposes.

128. (1) The sphere of competence of a commune shall comprise:

- (a) Matters pertaining to the sphere of action of communes;
- (b) Matters delegated to the communes by the Federation or the Province.

(2) The special sphere of action of a commune comprises the matters covered by article 125 and in addition matters allocated to the communes by a Federal or a Provincial Act. Communes may act at their discretion within their special sphere of action in conformity with the laws of the Federation and the Provinces.

(3) Federal and Provincial legislation shall prescribe the sphere of action to be allocated to the communes, that is to say, their compulsory collaboration with the Federal and Provincial Governments.

129. The communes are recognised as competent in the first instance in the following matters:

- (1) Measures to ensure the safety of persons and property (local security police);
- (2) Public assistance and welfare institutions;
- (3) Maintenance of the roads, paths, squares and bridges of the commune;
- (4) Local street police;
- (5) Policing of the communal territory;
- (6) Control of markets and foodstuffs;
- (7) Public health;
- (8) Control of buildings and measures for protection against fire.

## CHAPTER X. EMERGENCY POWERS OF THE AUTHORITIES

147. (1) If for the purpose of the maintenance of public order and peace, or to guarantee particular national economic interests or the financial interests of the State (in particular the economic situation of the Federation), it is necessary to promulgate immediate measures which, under the Constitution, require the approval of the Federal Diet, and if in the circumstances the immediate approval of the Federal Diet cannot be obtained, the Federal administrative authorities have the right under their own responsibility to take such measures as aforesaid by means of provisional Orders modifying existing legislation (emergency powers of the Federal Government). Moreover, such Orders may vest powers in special Federal bodies respecting Federal matters for which other Federal bodies would be responsible in normal circumstances.

(2) The Orders mentioned in paragraph (1) shall not contain amendments affecting provisions of the Constitution.

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## CHAPTER XI. SUPERVISION BY THE COURT OF ACCOUNTS

154. No member of the Court of Accounts may participate in the direction or administration of any undertaking which is bound to submit its accounts to the Federation or the Provinces, or which has any connection with the Federation or a Province arising out of a subsidy or contract.

155. (1) The Court of Accounts shall scrutinise the whole financial management of the Federal State; this shall cover likewise the financial management of departments or institutions which are indirectly attached to the Federation and the management of foundations, funds or establishments administered by administrative bodies of the Federation. The Court of Accounts may also be required to audit the accounts of foundations, funds or establishments administered by persons who have been appointed by executive bodies of the Federation; it may also be required to audit the accounts of undertakings in which the Federation has a financial interest. In connection with the supervision of the operations of an undertaking of this kind, the Court may examine likewise the expenditure of undertakings with which the first-mentioned undertaking has a financial connection. The management of Federal property on account of the State, the taking over of the assets or liabilities of an undertaking, the guarantee of a loan necessary for the carrying out of an undertaking, or assistance given for this purpose, shall be deemed to be equivalent to a financial interest.

159. (1) The Court of Accounts shall scrutinise the financial management in cases where such management implies autonomy, and also the financial management of foundations, funds or establishments administered by administrative bodies of the Provinces. The examination shall cover the accuracy of the accounts, compliance with the statutory provisions in force, and the economic importance and usefulness of the work carried out. Nevertheless, the supervision of the Court of Accounts shall not cover decisions of the representative bodies which, in virtue of the Constitution, were responsible for the undertaking of the work. . .

(4) Undertakings managed by a Province alone, and also other operations carried out in the name of a Province, shall be subject to supervision by the Court of Accounts; at the request of a Provincial Government the Court may examine action taken by the Province as an interested party or as guarantor of certain undertakings in which the Province has a financial interest or which are included in its budget in any other manner; the findings of the Court of Accounts shall be submitted to the Provincial Government concerned.

160. (5) Undertakings carried on by a commune and all other business

managed by a commune must be submitted to the Court of Accounts. As regards undertakings in which the commune is financially interested or on account of which it incurs a deficit, the Court of Accounts, at the request of the Provincial Government concerned, may examine action taken by the commune as a partner in or guarantor of the undertakings in question; the findings of the Court of Accounts must be transmitted to the Provincial Government. . .

161. (1) The Federal law shall authorise the submission to the Court of Accounts for audit of social insurance accounts and the accounts of institutions in public law which receive moneys from the Federation or from public funds for purposes pursued by the Federation as sovereign authority; the examination of the accounts shall cover the accuracy of the figures given and the question whether the moneys have been utilised in the prescribed manner and for the prescribed purposes.

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## BELGIUM

### Constitution of Belgium<sup>1</sup>

7 February 1831

#### TITLE II. BELGIAN CITIZENS AND THEIR RIGHTS

6. There shall be no distinction of classes in the state.

All Belgians are equal before the law; they alone are admissible to civil and military offices, with such exceptions as may be established by law for particular cases.

7. Individual liberty is guaranteed.

.....

11. No one may be deprived of his property except for a public purpose and according to the forms established by law, and in consideration of a just compensation previously determined.

12. Punishment by confiscation of property shall not be established.

13. Total deprivation of civil rights (*mort civile*) is abolished and shall not be re-established.

14. Religious liberty and the freedom of public worship, as well as free expression of opinion in all matters, are guaranteed with the reservation of power to suppress offences committed in the use of these liberties.

17. Private instruction shall not be restricted; all measures interfering with it are forbidden; the repression of offences shall be regulated by law.

Public instruction given at the expense of the state shall likewise be regulated by law.

18. The press is free; no censorship shall ever be established; no security shall be exacted of writers, publishers, or printers.

In case the writer is known and is a resident of Belgium, the publisher, printer, or distributor shall not be prosecuted.

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<sup>1</sup>English translation from MCBAIN and ROGERS: *The New Constitutions of Europe*, pp. 409-520; for French text, see DARESTE: *Les constitutions modernes*, 4th edition, Vol. I, 1928, pp. 349-369.

19. Belgians have the right, without previous authorisation, to assemble peaceably and without arms, conforming themselves to the laws which regulate the exercise of this right.

This provision does not apply to assemblies in the open air, which remain entirely under the police laws.

20. Belgians have the right of association; this right shall not be restricted by any preventive measure.

21. Anyone has the right to address petitions to the public authorities, signed by one or more persons.

Legally organised bodies alone have the right to petition under a collective name.

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## BULGARIA

### Constitution of the Kingdom of Bulgaria<sup>1</sup>

*16 to 28 April 1879*

#### CHAPTER IX. RELIGION

41. No-one shall be entitled, on the ground of his religious convictions, to evade compliance with existing laws which are generally binding on all.

#### CHAPTER XI. STATE LANDS

51. The State lands belong to the Kingdom of Bulgaria; neither the King nor the members of his family shall have power to dispose of them.

52. The rules subject to which State lands may be alienated and farmed out, and the rules relating to the revenues derived therefrom, shall be laid down by law.

#### CHAPTER XII. CITIZENS OF THE KINGDOM OF BULGARIA

##### *Division I. General Rules*

57. All Bulgarian subjects are equal before the law. Class distinctions shall not be recognised in Bulgaria.

60. Citizens of the Kingdom alone have political rights; all persons resident in the Kingdom enjoy civil rights in conformity with the laws.

61. No person in the Kingdom of Bulgaria shall purchase or sell a human being.

All slaves, irrespective of sex, religion or nationality, become free as soon as they enter Bulgarian territory.

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<sup>1</sup> English translation by the International Labour Office from the French text in DARESTE: *Les constitutions modernes*, 4th edition, Vol. I, 1928, pp. 371-393.

62. Laws relating to municipal administration (blagoustroïstvo) and police laws are binding equally on all persons resident in Bulgaria.

63. All real estate in the Kingdom, even if it belongs to aliens, is subject to Bulgarian laws.

64. In all other respects the position of aliens shall be prescribed by special laws.

### *Division III. Right of Property*

67. The right of property is inviolable.

68. Property shall not be expropriated except for reasons of public interest and subject to the payment of fair compensation in advance. The expropriation procedure shall be laid down by a special law.

### *Division VI. Inviolability of the Person, Domicile and Correspondence*

75. . .

Torture, irrespective of the charge, and confiscation of property are prohibited.

### *Division VII. Public Education*

78. Primary education is free and compulsory for all subjects of the Kingdom of Bulgaria.

### *Division VIII. Freedom of the Press*

79. The press is free. Censorship is not permitted and no security shall be required from authors, publishers and printers.

If the author is known and is living in the Kingdom, the publisher, printer and vendor shall not be prosecuted.

81. Violations of the laws governing the press shall be judged by the ordinary courts in conformity with the law.

### *Division IX. Freedom of Assembly and Association*

82. The inhabitants of the Kingdom of Bulgaria have the right, without previous authorisation, to assemble peaceably and without arms to discuss any matter whatsoever.

Assemblies in the open air shall be subject entirely to the police regulations.

83. Bulgarian citizens have the right to form associations without previous authorisation, provided nevertheless that the objects and methods of these associations are not of such a nature as to be prejudicial to the State, public order, religion or morality.

### *Division X. Right of Petition*

84. Every Bulgarian subject has the right to address petitions, signed by one or more persons, to the competent authorities. Lawfully organised bodies have the right to submit petitions through their representatives.

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## CYPRUS

Letters Patent Constituting the Office of Governor and Commander-in-Chief of the Colony of Cyprus and Providing for the Government thereof<sup>1</sup>

*10 March 1925*

16. The Governor, in our name and on our behalf, may make and execute, under the Public Seal, grants and dispositions of land within the colony which may be lawfully granted or disposed of by us: provided that every such grant or disposition be made in conformity, either with some law or regulation in force in the colony, or with some instructions addressed to the Governor under our Sign Manual and Signet or through one of our Principal Secretaries of State.

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## CZECHOSLOVAKIA

The Constitutional Charter of the Czechoslovak Republic<sup>2</sup>

*29 February 1920*

### SECTION V. RIGHTS, LIBERTIES, AND DUTIES OF THE CITIZEN

#### *Equality*

106. (1) Privileges due to sex, birth, or occupation shall not be recognised.

(2) All persons residing in the Czechoslovak Republic shall enjoy within its territory in equal measure with the citizens of this Republic complete and absolute security of life and liberty without regard to origin, nationality, language, race, or religion. Exceptions to this principle may be made only so far as is compatible with international law.

#### *Personal Freedom and Freedom of Property*

107. (1) Personal freedom shall be guaranteed. Details shall be laid down by an enactment which shall form part of this constitutional charter.

(2) No person shall be deprived of personal liberty or restricted in the enjoyment of the same except upon legal grounds. Public authorities can demand personal services from a citizen only on legal grounds.

108. (1) Every citizen of the Czechoslovak State may take up his abode wheresoever he will in the Czechoslovak Republic, may acquire there real property

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<sup>1</sup> Text from *British and Foreign State Papers*, Vol. 121, 1925, Part I, pp. 99-106.

<sup>2</sup> English translation from MCBAIN and ROGERS: *The New Constitutions of Europe*, pp. 310-342.

and carry on any calling for the purpose of earning profits within the limits of the law.

(2) This right shall suffer restriction only in the public interests and on the basis of law.

109. (1) Private ownership may be restricted only by law.

(2) Expropriation is possible only on the basis of law. Compensation shall be given in all cases unless it is or shall be provided by law that no compensation be given.

110. The right to emigrate abroad may be restricted only by law.

### *Freedom of the Press, the Right of Free Assembly and Association*

113. (1) Freedom of the press as well as the right to assemble peaceably and without arms and to form associations is guaranteed. It is therefore in principle inadmissible to place the press under preliminary censorship. The manner in which the right of forming associations and the right of free assembly shall be exercised shall be determined by law.

(2) An association may be dissolved only when its conduct violates the law of the land or disturbs public peace and order.

(3) Restrictions may be imposed by law especially in cases of assembly in places which serve as public thoroughfares, in cases of the establishment of associations for the purpose of profit, and in cases of the participation of foreigners in political associations. The law shall also state what restrictions shall be placed on the principles of the foregoing paragraphs in time of war or in case of events taking place within the State which seriously threaten the republican form of Government, the Constitution or public peace and order.

114. (1) The right of association to safeguard and ameliorate conditions of employment and economic conditions shall be guaranteed.

(2) All acts of individuals or societies which constitute an intentional violation of this right, are prohibited.

### *The Right of Petition*

115. The right to petition shall be enjoyed by every person. Legal persons and corporations shall enjoy this right only within the bounds of their competence.

### *Liberty of Instruction and of Conscience; Liberty of Expressing Opinion*

117. (1) Every person may within the limits of the law express his or her opinion by word, in writing, in print, by picture, etc.

(2) The same applies to legal persons within the limits of their competence.

(3) No one shall suffer in the sphere of his work or employment for exercising this right.

118. Scientific research and the publication of its results, as well as art, are free so far as they do not violate the penal code.

119. Public instruction shall be given so as not to be in conflict with the results of scientific investigation.

120. (1) Private establishments for instruction and education are permitted to be set up only within the limits of the law.

(2) The supreme authority and control over all instruction and education shall be in the hands of the State.

121. Liberty of conscience and religious creed is guaranteed.



*Marriage and Family*

126. Wedlock, family, and motherhood shall be under the special protection of the law.

SECTION VI. PROTECTION OF NATIONAL, RELIGIOUS, AND RACIAL MINORITIES<sup>1</sup>

128. (1) All citizens of the Czechoslovak Republic shall be in all respects equal before the law and shall enjoy equal civic and political rights whatever be their race, their language, or their religion.

(2) Difference in religion, belief, confession, or language shall within the limits of the common law constitute no obstacle to any citizen of the Czechoslovak Republic particularly in regard of entry into the public services and offices, of attainment to any promotion or dignity, or in regard to the exercise of any trade or calling.

(3) Citizens of the Czechoslovak Republic may, within the limits of the common law, freely use any language they choose in private and business intercourse, in all matters pertaining to religion, in the press and in all publications whatsoever, or in public assemblies.

(4) This, however, does not affect the rights conferred on the State organs in these matters by laws already in force or to be passed in the future with a view to public order, the security of the State, or effective control.

130. In so far as citizens of the Czechoslovak Republic are entitled by the common law to establish, manage, and administer at their own cost philanthropic, religious, or social institutions, they are all equal, no matter what be their nationality, language, religion, or race, and may, in such institutions, make use of their own language and worship according to their own religious ceremonies.

131. In towns and districts in which there lives a considerable fraction of Czechoslovak citizens speaking a language other than Czechoslovak, the children of such Czechoslovak citizens shall, in public instruction and within the bounds of the general regulations relating thereto, be guaranteed a due opportunity to receive instruction in their own tongue. The Czechoslovak language may at the same time be prescribed as a compulsory subject of instruction.

132. In towns and districts where there is living a considerable fraction of Czechoslovak citizens belonging to some minority, whether in respect of religion, or nationality, or language, and where specific sums of money from public funds as set out in the State budget or in the budget of local or other public authorities, are to be devoted to education, religion, or philanthropy, a due share in the use and enjoyment of such sums shall be secured to such minorities within the limits of the general regulations for public administration.

133. The method of carrying out the principles embodied in articles 131 and 132, and especially the interpretation to be assigned to the expression "considerable fraction", shall be determined by special enactment.

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<sup>1</sup>For the text of the Czechoslovak Minorities Treaty of 10 Sept. 1919, see HUDSON: *International Legislation*, Vol. I, 1919-1921, pp. 298-312.

## DANZIG

### Constitution of the Free City of Danzig<sup>1</sup>

11 August 1920

#### PART I. ORGANISATION OF THE STATE

##### IV. Legislation

45. Bills shall be introduced by the Senate, or by legally constituted bodies representing the various professions and trades.

Bills dealing with economic or social questions shall be submitted to these bodies for their approval.

#### PART II. FUNDAMENTAL RIGHTS AND DUTIES<sup>2</sup>

##### I. Individuals

72. All citizens of the Free City shall be equal before the law. No legislation which provides for exceptions shall be admissible.

Persons of both sexes shall have the same civil rights and duties.

There shall be no legal privileges or disqualifications due to birth, position, or creed.

73. Personal liberty shall be inviolable.

74. All citizens shall enjoy freedom of movement in the Free City and shall have the right to establish themselves, and to settle at any place they may choose, to acquire real property, and to pursue any calling. Limitations of this right shall require the sanction of the Legislature.

75. Every citizen shall be entitled to emigrate to other countries. Emigration can be restricted only by legislation.

76. Establishments set up by the State at the public expense in the interests of interior colonisation shall not be used to the prejudice of any particular nation.

78. Every man shall have the right within the limits of the law to express his own opinion in word, writing, or any other manner. This right shall not be restricted by any conditions of employment or appointment, and no man shall be in any way prejudiced by the exercise of this right.

Censorship shall not be permitted.

Different provisions may be established by law regarding cinematographs.

Legal measures shall be adopted to combat obscene and trashy literature, and to protect young persons at public performances and exhibitions.

<sup>1</sup> English translation from LEAGUE OF NATIONS: *Official Journal*, special supplement, No. 7, July 1922; the same supplement contains the German text.

<sup>2</sup> These provisions of the Constitution were considered by the Permanent Court of International Justice in the *Danzig Legislative Decrees Case*, PCIJ, 1935, Series A/B, No. 65, pp. 41-73.

79. Marriage as the foundation of family life shall be placed under the special protection of the State. It shall be based on the principle of equal rights for both sexes.

Large families shall have a claim to compensatory support.

Motherhood shall have a claim to the protection and support of the State.

80. The education of children to physical, intellectual, and social efficiency is the highest duty and natural right of parents.

The State shall supervise the execution of these duties.

81. The legislation shall extend similar conditions of physical, intellectual, and social development to illegitimate children as for children born in wedlock.

82. Young persons shall be protected against exploitation and also against moral, intellectual, or bodily neglect. Provisions for reformatory education can be made only by law.

83. All citizens shall have the right to meet together in a peaceful manner and unarmed, without giving notice and without special permission. Notice shall be given of open-air meetings, and permission may be withheld in the case of direct danger to public safety. Special provisions may be made for the protection of the Popular Assembly. Notification of religious processions shall not be necessary.

84. All citizens shall have the right to form unions or associations for purposes not in defiance of the criminal laws. This shall also apply to religious unions and associations. Every union shall be entitled to acquire legal status in accordance with the provisions of the civil law. This recognition shall not be withheld on the ground that the union has a political, social or religious object.

## *II. Public Servants*

90. All citizens of either sex shall be eligible for public appointments, in accordance with their qualifications and previous work.

Immediately after the coming into force of the Constitution of the Free City, special legislation shall be adopted with regard to the rights and payments of officials. The existing officials' organisations shall take part in the drafting of these laws.

91. Officials shall be appointed for life, except so far as is otherwise provided by the Constitution or by law. Pensions and allowances to widows and dependants shall be fixed by law. Vested rights of officials shall be inviolable. Officials shall have the right to claim the assistance of the courts in the matters that concern their pecuniary interests.

Officials can be provisionally removed from their office, discharged, or transferred, whether temporarily or permanently, to the retired list, or to another office with a lower salary, only in accordance with the conditions and formalities established by law. An opportunity for protest and for a reopening of the case shall be provided in the case of any penalty inflicted in connection with official duties. No entries of unfavourable facts shall be made in the record of an official before that official shall have had an opportunity to furnish an explanation. Every official shall have the right to look at his own record.

92. Officials are servants of the community and not of a party. Freedom of political opinion and freedom of association shall be assured them. They shall not be subjected to any restriction in this regard.

93. The officials shall have their own representation in accordance with more detailed provisions to be made by law.

94. Teachers of both sexes in the State schools shall be direct officials of the State. The obligation to maintain schools shall not be hereby affected.

### *III. Religion and Religious Associations*

95. Full freedom of creed and conscience shall be established. . . Enjoyment of civil and national rights and eligibility for public offices shall be independent of creed.

97. The property and other rights of religious associations and religious unions shall be guaranteed them for the purpose of maintaining institutions, foundations, and other undertakings of religious, educational, or charitable purposes.

98. In so far as the need arises for religious services and ministrations in infirmaries, prisons, and other public institutions, the religious associations shall be allowed to perform ceremonial acts, but all compulsion shall be excluded therefrom.

99. Sunday and the public holidays recognised by the State shall be protected by law as days of rest and spiritual edification.

### *IV. Education and Schools*

100. Arts and sciences and their teachings shall be free. The State shall provide for their protection and shall be bound to promote their interests in a liberal manner.

101. The entire administration of schools shall be governed by legislation, which shall be drafted in co-operation with the existing organisation of the teaching profession.

The entire administration of schools shall be placed under State supervision. Inspection of schools shall be carried out by expert officials.

102. Education shall be compulsory for all. It shall be afforded primarily by the primary school, at which eight years of attendance at least shall be required, and also by the continuation or technical schools for young persons of both sexes up to the end of their eighteenth year. The maintenance of the State schools is the affair of the State; it may associate the municipalities in these duties.

Instruction and materials required for education in the primary and continuation schools shall be free of charge.

103. The public administration of schools shall be organised according to a uniform principle. Existing schools of another type shall remain unchanged. The legitimate wishes of parents or students shall also be taken into account as regards any new organisation of such schools, provided that the orderly conduct of the schools is not prejudiced thereby.

The entire system of primary, secondary, and advanced schools shall start from a common primary school for all. In establishing this system regard shall be had to the varied nature of occupations and professions. In receiving a child into any particular school, consideration shall be paid to the disposition and inclination of the child as well as to the wishes of the parents or guardians, and not to the economic and social position of its parents.

Instruction and the materials required for education shall also be provided free of charge in the secondary and advanced schools for gifted children of poor parents. Gifted children of poor parents shall be provided with assistance from public funds to attend advanced schools and universities.

104. Private schools as substitutes for State schools shall require State authorisation and shall be subject to State legislation. Such sanction shall be granted only when the private school is not inferior to the State school in its educational aims and equipment and also in the educational qualifications of its teaching staff, and when a division of pupils according to the wealth of their parents is not thereby encouraged. Sanction shall also be refused when insufficient provision is made for the civil and economic position of the staff.

No further private preparatory schools shall be established, and those which exist shall be closed.

In every case compensation shall be awarded for the closing of established private schools, including preparatory schools. Further provision will be prescribed by law.

105. Religious instruction is a recognised school subject. It shall be given in accordance with the principles laid down by the religious associations without prejudice to the State's right of supervision.

The giving of religious instruction and the practice of religious observances shall be subject to the teachers' expressed willingness to undertake such duties; the right to withdraw a child from religious instruction, celebrations, or acts shall be granted in accordance with the expressed wishes of the person authorised to decide as to the child's religious upbringing.

106. In the course of instruction in the State schools care shall be taken not to offend the susceptibilities of those of a different way of thinking.

107. Civic rights and duties shall be a subject of instruction in schools. Every scholar at the end of his school period shall be given a copy of the Constitution.

108. Works of artistic, historical, and natural interest, and the beauties of the country shall be under the protection and care of the State.

It is the duty of the State to prevent the removal of works of art to foreign countries.

#### *V. Economic Life*

109. The rights of property shall be assured. Expropriation shall take place only in accordance with the provisions of the law in the public interest and in return for due compensation; in case of dispute recourse may be had to the decision of the courts.

110. The soil and natural resources shall be placed under legislation which shall prevent all misuse, and which shall enable every family of the Free City to obtain a homestead, or, if suitably trained, a farm permanently secured to meet their needs. Large families, those disabled by the war, and those physically affected as a result of their employment, shall be given special consideration in the housing legislation which is to be passed.

The unearned increment which arises from landed property without any expenditure of labour or capital shall be applied to the use of the community.

111. Special legislation may provide for the transference of private industrial undertakings to public ownership in return for compensation, in so far as the public welfare may demand.

112. Freedom of association for the purpose of guaranteeing and promoting the interests of labour and industrial conditions shall be assured to every man and to every occupation. Any conventions or provisions which attempt to limit or restrain such freedom shall be contrary to law.

113. In order to promote health and efficiency for work, to protect motherhood and to provide against the economic consequences of old age, weakness, and the vicissitudes of life, including unemployment, the State shall provide a comprehensive system of insurance, in the drafting of which the insured shall have a determining influence.

114. Workers and employees shall establish from amongst their number separate trades councils for workmen and employees. These shall enjoy equal standing, and shall co-operate with the employers in the regulation of questions concerning pay and labour conditions. Details will be determined by legislation.

The organisations of both sides and their mutual agreements shall be recognised.

In order to secure the social and economic interests of workers and employees and to promote the collective economic development of productive efficiency, a Labour Office shall be established in accordance with article 45, paragraph 2.

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## DENMARK

### Constitution of the Kingdom of Denmark<sup>1</sup>

*5 June 1915, with Amendments of 10 September 1920*

#### V

46. No tax may be imposed, altered or abolished, no troops may be raised, no loans may be contracted, and no land belonging to the State may be alienated save in pursuance of law.

#### VII

77. No person may, because of his religious opinions, be deprived of the full enjoyment of his civil and political rights, nor avoid fulfilling his duties as a citizen.

#### VIII

80. Property is inviolable. No person may be deprived of his property save where the public good requires it. Expropriation can only take place in consequence of legislation and on payment of full indemnity.

When a bill dealing with expropriation of property has been passed, one-third of the members of the Folketing may, not later than fourteen days after the final passing of the bill, demand that it be not presented for confirmation to the King until new elections to the Rigsdag have been held, and the bill has been also passed by the new Rigsdag in joint session.

81. All restrictions prejudicial to the free exercise of the professions by all, which are not based on grounds of public good, shall be abolished by law.

82. Any person unable to provide for his upkeep and that of his dependants, has, if the duty of supporting him does not lie on any other person, the right to State help on condition that he submits to the duties which the law prescribes in such matter.

83. Children whose parents have not the means to ensure them education have the right to free instruction in the public schools. Parents or guardians who themselves undertake the instruction of children to the standard generally required by the public schools are not obliged to send their children to school.

84. Every person has the right to publish his opinions in the press, but remains liable to legal proceedings in connection therewith. Censorship and other preventive measures may never be reintroduced.

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<sup>1</sup> English translation from *Select Constitutions of the World*, published by the Stationery Office, Dublin, 1922, pp. 293-308.

85. Citizens have the right, without preliminary authority, of forming associations having a legal object. No association may be dissolved by Governmental action. Nevertheless, an association may be temporarily forbidden, but proceedings to affect its dissolution should at once be taken against it.

86. Citizens have the right of meeting unarmed. Police may be present at public meetings. Meetings in the open air may be forbidden when they become a danger to the public peace.

91. No fee, manor inalienable or trust in realty shall be created henceforth; where those tenures exist at present, the manner of their conversion into free holdings shall be determined by a special law.

## ESTONIA

Constitution of 3 September 1937<sup>1</sup>

.....

Constitution of 15 June 1920<sup>2</sup>

### I. GENERAL DISPOSITIONS

4. The laws in force in Esthonia are those passed or recognised by her own institutions. The generally accepted precepts of international law are valid in Esthonia as an inseparable part of her juridical order.

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### II. FUNDAMENTAL RIGHTS OF ESTONIAN CITIZENS

6. All Esthonian citizens are equal in the eyes of law. There cannot be any public privileges or prejudices derived from birth, religion, sex, rank, or nationality. In Esthonia there are no legal class divisions or titles.

8. Personal inviolability is guaranteed in Esthonia. . .

.....

11. In Esthonia there is freedom of religion and conscience. . .

12. Science, art, and the teaching of same are free in Esthonia. Education is compulsory for children arrived at the school age, and is gratuitous in elementary schools. The minority nationalities are guaranteed education in their mother tongue. Education is carried out under the control of Government.

Autonomy is guaranteed to high schools within the limits foreseen by the statutes of the institutions passed in legislative way.

13. In Esthonia there is freedom for the expression of personal ideas in words, print, letters, pictures, and sculpture. This freedom can be restricted only in the defence of the State and morals.

There is no censorship in Esthonia.

15. The right to apply or address complaints to public departments is guar-

<sup>1</sup> French text in *Annuaire de l'Institut international de droit public*, 1938, pp. 178-226; for original text, see *Official Journal*, No. 71 of 3 Sept. 1937.

<sup>2</sup> English translation from McBAIN and ROGERS: *The New Constitutions of Europe*, pp. 452-464. See also LEAGUE OF NATIONS: *Official Journal*, Fourth Year, 1923, p. 380.

anted in Esthonia. The applications or complaints must not be accompanied by coercive measures. The departments in question are bound to give the matter legal motion.

17. Removal and change of domicile are free in Esthonia. In this freedom nobody can be restricted or hindered otherwise than by the judicial authorities.

In the interests of public health such freedom can be restricted also by other authorities in cases and in ways foreseen in the corresponding laws.

18. All Esthonian citizens have the right to hold public meetings unarmed, provided they are not disturbing to the public peace.

The forming of associations and unions is free in Esthonia.

Freedom to strike is guaranteed in Esthonia.

The law can restrict these rights only in the interest of public safety.

19. Liberty in the choice of occupation, the opening of business concerns and exploitation of same, as well in agriculture, commerce, and industry, as in other economic branches, is guaranteed in Esthonia. Nobody can be restricted or hindered in this freedom otherwise than on the basis and within the limits of the laws.

21. The members of minority nationalities within the confines of Esthonia may form corresponding autonomous institutions for the promotion of the interests of their national culture and welfare in so far as these do not run contrary to the interests of the State.

24. The right of private property is guaranteed in Esthonia to every citizen. Without the owner's consent it can be expropriated only in the common interest in accordance with the corresponding laws and in the ways foreseen in the laws.

25. The organisation of the economic life in Esthonia must correspond with the principles of justice, the object of which is the securing of conditions of living worthy of human beings by corresponding laws relating to the acquiring of land for cultivation and a home, and the obtaining of employment, as well as the necessary support for the protection of maternity, labour, youth, old age, disability, and in cases of accident.

#### IV. THE STATE ASSEMBLY

55. The State Assembly through its corresponding institutions controls the economic life of the State enterprises and institutions as well as the carrying out of the State budget.

## FINLAND

### Constitution of Finland<sup>1</sup>

*17 July 1919*

#### TITLE II. GENERAL RIGHTS AND CONSTITUTIONAL PROTECTION OF FINNISH CITIZENS

5. Finnish citizens shall be equal before the law.

6. Every Finnish citizen shall be protected by law in his health, his honour, his personal liberty, and his property.

<sup>1</sup> English translation from McBAIN and ROGERS: *The New Constitutions of Europe*, pp. 465-495.



The labour power of citizens shall be under the special protection of the State.

Expropriation for public utility purposes with full compensation shall be regulated by law.

7. Every Finnish citizen shall have the right of sojourn in his country, of freely choosing his place of domicile, and of travelling from one place to another, unless otherwise provided by law.

The right of Finnish citizens to leave the country shall be limited by such special regulations as may be applicable.

9. Profession of religion or the fact of belonging to no religion shall have no influence upon the rights and duties of Finnish citizens. In respect to public offices, legal restrictions which are not in conflict herewith shall remain in force until otherwise provided by law.

10. Finnish citizens shall enjoy freedom of speech and the right of printing and publishing written or pictorial representations without any previous restraint being imposed. They shall also have the right of assembly without previous authorisation, for the discussion of public affairs and for all other legitimate purposes, and the right of creating associations for purposes not contrary to the law or good morals.

The rules governing the exercise of these rights shall be established by law.

14. . .

The right of Finnish citizens to use their mother tongue, whether Finnish or Swedish, before the courts and the administrative authorities, and to receive papers and decisions in such language, shall be guaranteed by law; care shall be taken that the rights of the Finnish population and the rights of the Swedish population of the country shall be protected in accordance with identical principles.

The State shall provide for the intellectual and economic needs of the Finnish and Swedish populations in accordance with identical principles.

#### TITLE VI. PUBLIC FINANCE

73. The Bank of Finland shall be placed under the guarantee and protection of the Chamber of Representatives and under the supervision of directors elected by the Chamber of Representatives.

The Bank of Finland shall be administered in accordance with procedure prescribed by law.

The Chamber shall determine how the profits of the Bank shall be used for the needs of the State.

74. Landed property, funds, imposts, or revenue-producing rights of the State shall not be alienated or hypothecated except as authorised by law.

The occupier of a crown domain shall nevertheless have the right to purchase such domain for inheritance in accordance with special regulations upon this subject.

#### TITLE VIII. EDUCATION

77. The University of Helsingfors shall retain its right of autonomy.

New regulations in respect to the principles of organisation of the University shall be promulgated by law; but details in respect to the University shall be regulated by ordinance. In both cases the Consistory of the University must be previously consulted.

78. The State shall promote the study of, and higher instruction in, the technical, agricultural, and commercial sciences and other applied sciences, as well as the practice of, and higher instruction in, the fine arts, by supporting

and creating for all of these branches special schools of higher learning in so far as these are not represented at the University, or by giving grants-in-aid to private institutions created for this purpose.

79. Institutions giving scientific instruction or general intermediate instruction or higher primary instruction shall be supported at the expense of the State or, if need be, by grants-in-aid. The principles of organisation of the secondary schools of the State shall be established by law.

80. The principles of organisation of primary instruction and in respect to the obligations of the State and municipalities to support primary schools, as well as on the subject of compulsory education, shall be determined by law.

Instruction in the primary schools shall be free to all.

81. The State shall support, or in case of need shall give grants-in-aid to, institutions for instruction in the technical professions, in agriculture and its allied pursuits, in commerce and navigation, and in the fine arts.

82. The right to establish private schools or other private institutions of instruction and to organise instruction therein shall be regulated by law.

Instruction given at home shall be subject to no supervision by the authorities.

### **Aaland Islands**

Finnish Law regarding the Autonomy of the Aaland Islands<sup>1</sup>

6 May 1920

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Convention on the Non-Fortification and Neutralisation of the  
Aaland Islands<sup>2</sup>

20 October 1921

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### **FRANCE**

Declaration of the Rights of Man and Citizen<sup>3</sup>

26 August 1789

The representatives of the French people, organised in National Assembly, considering that ignorance, forgetfulness or contempt of the rights of man, are

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<sup>1</sup> There is a French text of this law in *British and Foreign State Papers*, Vol. 132, 1930, Part I, pp. 727-728.

<sup>2</sup> The text of the Convention is reprinted in HUDSON: *International Legislation*, Vol. I, 1919-1921, pp. 744-751.

<sup>3</sup> English translation from RAPPARD-SHARP-SCHNEIDER-POLLOCK-HARPER: *Source Book on European Governments*, New York, 1937, pp. II-157 to II-160; for the French text of this and subsequent French Declarations of Rights, see F. A. HÉLIE: *Les constitutions de la France*, Paris, 1880; for the French text of the constitutional and organic laws of 1875 as amended to 1927, see DARESTE: *Les constitutions modernes*, 4th edition, Vol. I, 1928, pp. 9-29; for an English translation of the 1875 laws as amended to 1909, see W. F. DODD: *Modern Constitutions*, Vol. II, 1909, pp. 283-319.

the sole causes of the public miseries and of the corruption of Governments, have resolved to set forth in a solemn declaration the natural, inalienable, and sacred rights of man, in order that this declaration, being ever present to all the members of the social body, may unceasingly remind them of their rights and duties; in order that the acts of the legislative power and those of the executive power may be each moment compared with the aim of every political institution and thereby may be more respected; and in order that the demands of citizens, grounded henceforth upon simple and incontestable principles, may always take the direction of maintaining the Constitution and welfare of all.

In consequence, the National Assembly recognises and declares, in the presence and under the auspices of the Supreme Being, the following rights of man and citizen.

1. Men are born and remain free and equal in rights. Social distinctions can be based only upon public utility.

2. The aim of every political association is the preservation of the natural and imprescriptible rights of man. These rights are liberty, property, security, and resistance to oppression.

3. The source of all sovereignty is essentially in the nation; no body, no individual can exercise authority that does not proceed from it in plain terms.

4. Liberty consists in the power to do anything that does not injure others; accordingly, the exercise of the natural rights of each man has no limits except those that secure to the other members of society the enjoyment of these same rights. These limits can be determined only by law.

5. The law has the right to forbid only such actions as are injurious to society. Nothing can be forbidden that is not interdicted by the law, and no-one can be constrained to that which it does not order.

6. Law is the expression of the general will. All citizens have the right to take part personally, or by their representatives, in its formation. It must be the same for all, whether it protects or punishes. All citizens being equal in its eyes, are equally eligible to all public dignities, places, and employments, according to their capacities, and without other distinction than that of their virtues and their talents.

7. No man can be accused, arrested, or detained, except in the cases determined by the law and according to the forms that it has prescribed. Those who procure, expedite, execute, or cause to be executed arbitrary orders ought to be punished; but every citizen summoned or seized in virtue of the law ought to render instant obedience; he makes himself guilty by resistance.

8. The law ought to establish only penalties that are strictly and obviously necessary, and no one can be punished except in virtue of a law established and promulgated prior to the offence and legally applied.

9. Every man being presumed innocent until he has been pronounced guilty, if it is thought indispensable to arrest him, all severity that may not be necessary to secure his person ought to be strictly suppressed by law.

10. No one should be disturbed on account of his opinions, even religious, provided their manifestation does not derange the public order established by law.

11. The free communication of ideas and opinions is one of the most precious of the rights of man; every citizen then can freely speak, write, and print, subject to responsibility for the abuse of this freedom in the cases determined by law.

12. The guarantee of the rights of man and citizen requires a public force; this force then is instituted for the advantage of all and not for the personal benefit of those to whom it is entrusted.

13. For the maintenance of the public force and for the expenses of administration a general tax is indispensable; it ought to be equally apportioned among all the citizens according to their means.

14. All the citizens have the right to ascertain, by themselves or by their representatives, the necessity of the public tax, to consent to it freely, to follow

the employment of it, and to determine the quota, the assessment, the collection, and the duration of it.

15. Society has the right to call for an account of his administration from every public agent.

16. Any society in which the guarantee of the rights is not secure, or the separation of powers not determined, has no constitution at all.

17. Property being a sacred and inviolable right, no one can be deprived of it, unless a legally established public necessity evidently demands it, under the condition of a just and prior indemnity.

### Constitutional Law concerning the National Defence Bonds Amortisation Fund of 10 August 1926<sup>1</sup>

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## GERMANY

### Constitution of the German Reich of 11 August 1919<sup>2</sup>

The German people united in every respect and inspired by the determination to restore and confirm the Reich in liberty and justice, to serve peace at home and peace abroad, and to further social progress, has given itself this Constitution.

#### CHAPTER I. THE REICH: ITS ORGANISATION AND FUNCTIONS

##### *Section I. The Reich and the States*

4. The universally recognised rules of international law are accepted as integral and obligatory parts of the law of the German Reich.

6. The Reich shall have the exclusive power of legislation in respect to:

- (1) Foreign relations.
- (3) Citizenship, freedom of movement, immigration and emigration, extradition.
- (5) Currency.
- (6) Customs, including uniformity in customs and commercial districts and the free transit of goods.
- (7) Posts and telegraphs, including telephones.

7. The Reich shall have power of legislation in respect to:

- (1) Civil law.
- (2) Criminal law.

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<sup>1</sup> French text in DARESTE: *Les constitutions modernes*, 4th edition, Vol. I, 1928, p. 13. For English texts of the German constitutional laws of 1933 and 1934, see *British and Foreign State Papers*, Vol. 136, 1933, pp. 7-23 and Vol. 137, 1934, pp. 492-494.

<sup>2</sup> English translation from McBAIN and ROGERS: *The New Constitutions of Europe*, pp. 167-212; for German text, see GIESE: *Die Verfassung des Deutschen Reiches vom 11 August 1919*.

- (3) Judicial procedure, including the execution of justice; as well as official assistance by one public authority to another.
- (4) Passports and police supervision of aliens.
- (5) Poor relief and vagrancy.
- (6) The press, the right of association, the right of assembly.
- (7) Problems of population, and protection of maternity, infancy, childhood, and adolescence.
- (8) Public health, veterinary regulations and protection of plants against disease or injury.
- (9) Rights of labour, insurance and protection of workers and other employees, and employment exchanges.
- (10) The organisation of professional associations extending over the Reich.
- (11) The care of discharged soldiers and their dependants.
- (12) The law of expropriation.
- (13) Socialisation of natural resources and of economic undertakings, as well as the manufacture, production, distribution, and price-fixing of economic goods destined for public use.
- (14) Commerce, weights and measures, the issue of paper money, banking, and stock and produce exchanges.
- (15) Commerce in foodstuffs and food luxuries, as well as in commodities of daily use.
- (16) Industry and mining.
- (17) Insurance.
- (18) Maritime commerce, deep sea and coast fisheries.
- (19) Railways, internal navigation, motor traffic by land, sea and air, and the construction of roads for general traffic and national defence.
- (20) Theatres and cinematographs.

8. The Reich shall have in addition the power of legislation as to taxation and other revenues in so far as they are claimed in whole or in part for its purposes. If the Reich lays claim to taxes or other revenues which formerly belonged to the States, due consideration must be given to the protection of the financial needs of the States.

9. In so far as it is necessary to issue uniform regulations, the Reich shall have the power of legislation in respect to:

- (1) Social welfare.
- (2) Protection of public order and safety.

10. The Reich may by law prescribe fundamental principles with respect to:

- (1) Rights and duties of religious associations.
- (2) Education, including higher education and scientific libraries.
- (3) Rights of officials of all public bodies.
- (4) Land titles, land distribution, land colonisation and homesteads, entail, housing, and distribution of the population.
- (5) Disposition of the dead.

#### *Section VI. National Administration*

81. All German merchant ships shall form a single commercial fleet.

82. Germany forms a single customs and commerce zone surrounded by a common customs boundary.

The customs boundary coincides with the political boundary. On the seacoast the shore of the mainland and of the islands belonging to the national territory shall form the customs boundary. Changes may be made in the line of the customs boundary on the sea coasts and other waters.

Foreign territories or parts of territories may by treaties or agreements be included within the customs boundary.

Under special conditions, portions of territory may be excluded from the customs zone. In the case of free ports such exclusion may be terminated only by a constitutional amendment.

Territories excluded from the customs may be joined to a foreign customs zone by treaties or agreements.

All natural products as well as manufactured articles and works of art which are subjects of free commerce in the Reich may be carried across the boundaries of the States for import, export, or through traffic. Exceptions may be made by a national law.

83. Customs and consumption taxes shall be administered by national authorities.

In the administration of national taxes by national authorities, arrangements shall be made which will permit the States to safeguard special State interests in respect to agriculture, commerce, trade, and industry.

84. The Reich shall by law regulate:

- (1) The organisation of the tax administration of the States, so far as the uniform and impartial execution of national tax laws requires.
- (2) The organisation and powers of the authorities empowered to supervise the execution of the national tax laws.
- (3) Accounting with the States.
- (4) The reimbursement of administrative expenses incurred in the execution of the national tax laws.

88. Posts and telegraphs, including telephones, are exclusively in the hands of the Reich.

Postage stamps shall be uniform throughout the entire Reich.

The National Ministry shall, with the consent of the Reichsrat, issue regulations prescribing the conditions and rates for the use of the services of communication. With the consent of the Reichsrat it may delegate this function to the National Minister of Posts.

The National Ministry shall, with the consent of the Reichsrat, establish an advisory council to consult and co-operate in matters pertaining to the posts, telegraphs, telephones, and rates.

Treaties with foreign States in respect to communication may be made only by the Reich.

89. It shall be the duty of the Reich to acquire as its own property all railroads serving as means of general communication and to administer them as a uniform system of transportation.

The rights of the States to acquire private railways shall be transferred to the Reich on its demand.<sup>1</sup>

97. It shall be the duty of the Reich to acquire as its own property and to administer waterways serving as means of general communication.

After such acquisition, waterways serving as means of general communication may be constructed or extended only by the Reich or with its consent.

In the administration, extension, or new construction of waterways the requirements of agriculture and of water supply shall be safeguarded in co-operation with the States. Consideration must also be given to the promotion of these interests.

Every waterways administration shall consent to connection with other inland waterways at the expense of the entrepreneur. The same obligation shall apply to the construction of a connection between inland waterways and railways.

In the acquisition of waterways the Reich acquires the right of expropriation

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<sup>1</sup> More detailed provisions regarding railways are contained in articles 90 to 96.

and the rate-making power as well as police authority over water courses and navigation.

The projects of river improvement associations in respect to the extension of natural waterways in the basins of the Rhine, the Weser, and the Elbe shall be taken over by the Reich.<sup>1</sup>

101. It shall be the duty of the Reich to acquire as its own property and to administer all aids to navigation, in particular lighthouses, lightships, buoys, floats, and beacons. After such acquisition, aids to navigation may be constructed or extended only by the Reich or with its consent.

## CHAPTER II. FUNDAMENTAL RIGHTS AND DUTIES OF GERMANS

### *Section I. The Individual*

109. All Germans are equal before the law.

Men and women have in principle the same civil rights and duties.

Privileges or discriminations in public law based upon birth or rank are abolished. . .

110. . . . .

Every German shall have in every State of the Reich equal rights and duties with the citizens of that State.

111. All Germans shall enjoy freedom of movement throughout the whole Reich. Everyone shall have the right to sojourn and settle in any place he pleases, to acquire property, and to carry on any gainful occupation. Restrictions require a national law.

112. Every German has the right to emigrate to non-German countries. Emigration may be restricted only by a national law.

All German citizens within and without the boundaries of the Reich have the right of protection by the Reich against foreign countries.

No German may be extradited for prosecution or punishment by a foreign Government.

114. Liberty of the person is inviolable. . .

118. Every German has the right within the limits of the general laws, to express his opinion orally, in writing, in print, pictorially, or in any other way. No circumstance arising out of his work or employment shall hinder him in the exercise of this right, and no one shall discriminate against him if he makes use of such right.

No censorship shall be established, but exceptional provisions may be made by law for cinematographs. Moreover, legal measures are permissible for the suppression of indecent and obscene literature, as well as for the protection of youth at public plays and exhibitions.

### *Section II. Community Life*

119. Marriage, as the foundation of family life and of the preservation and increase of the nation, stands under the special protection of the Constitution. It shall rest upon the equality of rights of both sexes.

It shall be the duty of the State (*Staat*) and of the municipalities to maintain the purity, health, and social welfare of the family. Families of many children shall have the right to compensatory public assistance.

Maternity shall have the right to the protection and public assistance of the State.

120. The education of their children for physical, intellectual, and social

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<sup>1</sup> More detailed provisions regarding waterways are contained in articles 98 to 100.

efficiency is the highest duty and natural right of parents, whose activities shall be supervised by the political community.

121. Illegitimate children shall be given by law the same opportunities for their physical, intellectual, and social development as legitimate children.

122. Youth shall be protected against exploitation as well as against moral, spiritual, or physical neglect. The State (*Staat*) and the municipalities shall make the necessary provisions.

Protective measures by way of compulsion may be instituted only by authority of law.

123. All Germans have the right to assemble peaceably and unarmed without notice or special permission.

By national law notice may be required for meetings in the open air, and they may be prohibited in case of immediate danger to the public safety.

124. All Germans have the right to form societies or associations for purposes not prohibited by the Criminal Code. This right may not be limited by preventive regulations. The same provision applies to religious societies and associations.

Every association has the right to incorporate according to the provisions of the Civil Code. Such right may not be denied to an association on the ground that its purpose is political, social, or religious.

126. Every German has the right to address in writing petitions or complaints to the competent authorities or to representative bodies. This right may be exercised by individuals as well as by groups.

128. All citizens without discrimination shall be eligible for public office in accordance with the laws and their capacities and merits.

All exceptional provisions in respect to female officials shall be abolished.

The principles governing official relationships shall be regulated by national law.

129. Officials shall be appointed for life except as otherwise provided by law. Pensions and provision for surviving dependants shall be regulated by law. Duly acquired rights of officials shall be inviolable. Lawful salary claims of officials may be established by legal process.

Officials may be temporarily removed from office, provisionally or permanently retired, or transferred to another position at a smaller salary, only for reasons and according to forms provided by law.

In case of disciplinary punishment a mode of redress and the opportunity for reconsideration shall be open.

Entries upon the service records of an official of facts unfavourable to him shall be taken into consideration only after he has been given an opportunity to be heard in respect to them. Officials shall have a right to inspect their service records.

The inviolability of duly acquired rights and the right of resort to legal process for lawful salary claims are especially guaranteed to professional soldiers. Their status shall in other respects be regulated by national law.

130. Officials are servants of the whole community and not of a party.

All officials shall be guaranteed freedom of political opinion and freedom of association.

Officials shall receive special official representation according to detailed provisions of national law.

134. All citizens without discrimination shall in proportion to their means contribute to all public burdens in accordance with the laws.

### *Section III. Religion and Religious Associations*

135. All inhabitants of the Reich shall enjoy complete liberty of belief and conscience. . .



136. Civil and political rights and duties shall be neither conditioned upon, nor restricted by, the exercise of religious freedom.

The enjoyment of civil and political rights as well as eligibility to public office shall be independent of religious belief.

138.

The property and other rights of religious associations and religious unions in their cultural, educational, and social welfare institutions, foundations, and other funds shall be guaranteed.

139. Sundays and holidays recognised by the State (*Staat*) remain protected by law as days of rest and spiritual uplift.

141. So far as there is need for divine worship and spiritual ministration in the army, hospitals, penal establishments, or other public institutions, religious associations shall be admitted for the performance of religious offices without the exercise of any compulsion.

#### Section IV. Education and Schools

142. Art, science, and instruction in them are free. The State (*Staat*) guarantees their protection and participates in their promotion.

143. The education of youth shall be provided for through public institutions. The Reich, the States, and the municipalities shall co-operate in their organisation.

The training of teachers shall be uniformly regulated for the Reich according to the principles which apply generally to higher education.

The teachers in public schools shall have the rights and duties of State officials.

144. The entire school system shall be under the supervision of the State; the latter may cause the municipalities to participate therein. The supervision of schools shall be carried on by officials mainly occupied with this duty and technically trained.

145. Compulsory education shall be universal. For this purpose the elementary school with at least eight school years, followed by the continuation school up to the completion of the eighteenth year, shall serve primarily. Instruction and school supplies shall be free in elementary and continuation schools.

146. The public school system shall be organised according to a general plan. The intermediate and higher school system shall be developed on the basis of an elementary school common to all. This development shall be governed by the varying requirements of vocations; and the admission of a child to a particular school shall be governed by his ability and aptitude and not by the economic and social position or the religious belief of his parents.

Nevertheless, within the municipalities, upon the request of those persons having the right to education, elementary schools of their own religious belief or of their *Weltanschauung* shall be established, provided that an organised school system in the sense of paragraph 1 is not thereby interfered with. The wishes of those persons having the right to education shall be considered so far as possible. Detailed regulations shall be prescribed by State legislation on the basis of a national law.

To enable those in poor circumstances to attend secondary and higher schools, the Reich, the States, and the municipalities shall provide public funds, especially educational allowances for the parents of children who are considered qualified for further education in intermediate and higher schools until the completion of such education.

147. Private schools as a substitute for public schools shall require the approval of the State (*Staat*) and shall be subject to the laws of the States (*Länder*). Such approval shall be granted if the standard of the private schools in their curricula and equipment, as well as in the scientific training of their teachers, does

not fall below that of the public schools, and if no discrimination against pupils on account of the economic standing of their parents is fostered. Such approval shall be denied if the economic and legal status of the teachers is not sufficiently safeguarded.

Private elementary schools shall be established only if, for a minority of those persons having a right to education whose wishes must be taken into consideration according to article 146, paragraph 2, there is in the municipality no public elementary school of their religious belief or of their *Weltanschauung*, or if the educational administration recognises a special pedagogical interest.

Private preparatory schools are abolished.

The existing laws shall continue in force for private schools which do not serve as substitutes for public schools.

148. In all schools effort shall be made to develop moral education, civic sentiments, and personal and vocational efficiency in the spirit of the German national character and of international conciliation.

In the instruction in the public schools care shall be taken not to offend the sensibilities of those of contrary opinions.

Civic education and manual training shall be part of the curricula of the schools. Every pupil shall at the end of his obligatory schooling receive a copy of the Constitution.

The Reich, the States, and the municipalities shall foster popular education, including people's institutes.

149. Religious instruction shall be part of the regular school curriculum with the exception of non-sectarian (secular) schools. Such instruction shall be regulated by the school laws. Religious instruction shall be given in harmony with the fundamental principles of the religious association concerned without prejudice to the right of supervision by the State (*Staat*).

Teachers shall give religious instruction and conduct church ceremonies only upon a declaration of their willingness to do so; participation in religious instruction and in church celebrations and acts shall depend upon a declaration of willingness by those who control the religious education of the child.

Theological faculties in institutions of higher learning shall be maintained.

150. Artistic, historical, and natural monuments as well as landscapes enjoy the protection and care of the State (*Staat*).

It shall be the duty of the Reich to prevent the removal of German artistic treasures to foreign countries.

### *Section V. Economic Life*

151. The organisation of economic life must conform to the principles of justice to the end that all may be guaranteed a decent standard of living. Within these limits the economic liberty of the individual shall be assured.

Legal compulsion is permissible only to safeguard threatened rights or to serve the purpose of promoting an overwhelming public interest.

Freedom of commerce and industry shall be guaranteed by national laws.

152. In economic transactions freedom of contract shall prevail in accordance with the law.

Usury is prohibited. Legal transactions which are contrary to public policy are null and void.

153. Property shall be guaranteed by the Constitution. Its nature and limits shall be prescribed by law.

Expropriation shall take place only for the general good and only on the basis of law. It shall be accompanied by payment of just compensation unless otherwise provided by national law. In case of dispute over the amount of compensation recourse to the ordinary courts shall be permitted, unless otherwise provided by national law. Expropriation by the Reich over against the States, municipalities,

and associations serving the public welfare may take place only upon the payment of compensation.

Property imposes obligations. Its use by the owner shall at the same time serve the public good.

154. The right of inheritance shall be guaranteed according to the provisions of the Civil Code.

The share of the State in estates shall be determined by law.

155. The distribution and use of the soil shall be controlled by the State in such a manner as to prevent abuse and to promote the object of assuring to every German a healthful habitation and to all German families, especially those with many children, homesteads for living and working that are suitable to their needs. Discharged soldiers shall receive special consideration in the homestead law that is to be drafted.

Landed property the acquisition of which is necessary for the satisfaction of the demand for dwellings, for the promotion of colonisation and reclamation, or for the improvement of agriculture may be expropriated. Entailments shall be abolished.

The cultivation and use of the soil shall be the duty of its owner towards the community. An increase in the value of land which accrues without the application of labour or capital to the property shall inure to the benefit of all.

All natural resources of the soil and all economically useful forces of nature shall be under the supervision of the State (*Staat*). Private royalties shall by law be transferred to the State (*Staat*).

156. The Reich may by law, without prejudicing the right of compensation, and with due application of the provisions in force with regard to expropriation, transfer to public ownership private economic enterprises suitable for socialisation. The Reich itself may participate or may cause the States or municipalities to share in the management of economic enterprises and associations, or may in any other manner assure to itself a determining influence therein.

Moreover, in case of pressing need, the Reich may, in the interest of collectivism, combine by law, on a basis of administrative autonomy, economic enterprises and associations, in order to secure the co-operation of all human elements of production, to give to employers and employees a share in management, and to regulate the manufacture, production, distribution, use, and prices, as well as the import and export, of economic goods upon collectivist principles.

Producing and consuming co-operative societies, or associations thereof, shall upon their request be brought into the collectivist system with due regard for their constitution and peculiarities.

157. Labour shall be under the special protection of the Reich.

The Reich shall adopt a uniform labour code.

158. Intellectual labour, rights of authors, inventors, and artists shall enjoy the protection and care of the Reich.

Recognition of, and protection for, the products of German intellect, art, and technical science shall also be secured in foreign countries by international agreements.

159. For the defence and amelioration of conditions of labour and of economic life, freedom of association is guaranteed to everyone and to all professions. All agreements and provisions which attempt to limit this freedom or seek to hinder its exercise are illegal.

160. Any person who stands in a service or work relationship as employee or worker shall have the right to such free time as is necessary for the exercise of his civic rights and, in so far as the business in which he is engaged is not thereby seriously interfered with, for the performance of the public honorary official duties assigned to him. The extent to which his claim to compensation shall be recognised will be determined by law.

161. The Reich shall, with the controlling participation of the insured, establish a comprehensive scheme of insurance for the conservation of health

and of the capacity to work, for the protection of maternity, and for the amelioration of the economic consequences of old age, infirmity, and the changing circumstances of life.

162. The Reich shall endeavour to secure international regulation of the legal status of workers to the end that the entire working class of the world may enjoy a universal minimum of social rights.

163. Every German shall, without prejudice to his personal freedom, be under the moral duty to use his intellectual and physical capacity as may be demanded by the general welfare.

Every German shall be given an opportunity to gain a living by productive work. In so far as a suitable occupation cannot be found for him, provision shall be made for his necessary maintenance. Detailed regulations shall be prescribed by special national laws.

164. The independent middle class in agriculture, industry, and commerce shall be benefited by legislation and administration and shall be protected against exploitation and oppression.

165. Workers and employees shall be called upon to co-operate in common with employers, and on an equal footing, in the regulation of salaries and working conditions, as well as in the entire field of the economic development of the forces of production. The organisations on both sides and their agreements shall be recognised.

Workers and employees shall, for the purpose of looking after their economic and social interests, be given legal representation in Factory Workers Councils, as well as in District Workers Councils organised on the basis of economic areas and in a Workers Council of the Reich.

District Workers Councils and the Workers Council of the Reich shall meet with the representatives of employers and other interested population groups as District Economic Councils and as an Economic Council of the Reich (*Reichswirtschaftsrat*) for the purpose of performing economic functions and for co-operation in the execution of the laws of socialisation. District Economic Councils and the Economic Council of the Reich shall be constituted so that all important economic groups shall be represented therein proportionately to their economic and social importance.

The National Ministry shall, before proposing drafts of politico-social and politico-economic bills of fundamental importance, submit them to the Economic Council of the Reich for consideration. The Economic Council of the Reich shall itself have the right to initiate drafts of such bills. If the National Ministry fails to assent, it shall nevertheless present the draft to the Reichstag accompanied by an expression of its views. The Economic Council of the Reich may designate one of its members to appear before the Reichstag in behalf of the proposal.

Powers of control and administration may be conferred upon Workers and Economic Councils within the spheres assigned to them.

The regulation of the development and functions of Workers and Economic Councils, as well as their relations with other administratively autonomous social bodies shall be exclusively a matter for the Reich.

## STATES OF GERMANY<sup>1</sup>

<sup>1</sup> For an English translation of the Prussian Constitution of 30 Nov. 1920, see McBAIN and ROGERS: *The New Constitutions of Europe*, pp. 217-232; for a French translation of the post-1919 Constitutions of all the German States, see DARESTE: *Les constitutions modernes*, 4th edition, Vol. 1, 1928, pp. 99-275.

## GIBRALTAR

### Letters Patent Constituting the Office of Governor and Commander-in-Chief of the City and Garrison of Gibraltar<sup>1</sup>

12 September 1922

VIII. *Substantially identical with Cyprus Letters Patent, p. 43, but relates to buildings as well as to lands.*

### Royal Instructions to the Governor and Commander-in-Chief<sup>2</sup>

12 September 1922

25. It being our intention that all persons inhabiting the City and Garrison should have full liberty of conscience and the free exercise of their respective modes of religious worship, we do hereby require the Governor to permit all persons within the City and Garrison to have such liberty, and to exercise such modes of religious worship, provided they be content with a quiet and peaceable enjoyment of the same, not giving offence or scandal to the Government.

## GREAT BRITAIN

*As is well known, the United Kingdom of Great Britain and Northern Ireland has no written constitution. It would not be possible to give within the limits of this volume any adequate picture of the historical charters, statutes, and judicial decisions which constitute British constitutional law and determine the constitutional framework of British social and economic policy. It has therefore been decided to limit the British provisions included in this volume in respect of the United Kingdom to extracts from Magna Carta, and extracts from two recent statutes, the Statute of Westminster 1931 and the Colonial Development and Welfare Act 1940, and references to some of the other outstanding British constitutional instruments. Collections of British constitutional documents<sup>3</sup> are relatively accessible and the more*

<sup>1</sup> Text from *Laws of Gibraltar*, revised edition, Vol. III, 1935, p. 2507.

<sup>2</sup> Text from *Constitutions of All Countries*, Vol. I, p. 457.

<sup>3</sup> WILLIAM STUBBS: *Select Charters and other Illustrations of English Constitutional History from the earliest Times to the Reign of Edward the First*, 4th edition, Oxford, 1881; J. R. TANNER: *Tudor Constitutional Documents, 1485-1603*, Cambridge, 1922; J. R. TANNER: *Constitutional Documents of the Reign of James I, 1603-1625*, Cambridge, 1930; G. W. PROTHERO: *Select Statutes and Other Constitutional Documents Illustrative of the Reigns of Elizabeth and James I, 1558-1625*, 2nd edition, Oxford, 1898; Samuel Rawson GARDINER: *The Constitutional Documents of the Puritan Revolution, 1625-1660*, 2nd edition, Oxford, 1899; George Burton ADAMS and H. Morse STEPHENS: *Select Documents of English Constitutional History, 1066-1885*, New York, 1910; Eugene MORROW VIOLETTE: *English Constitutional Documents since 1832*, New York, 1930; D. L. KEIR and F. H. LAWSON: *Cases in Constitutional Law*, Oxford, 1928; Carl STEPHENSON and Frederick George MARKHAM: *Sources of English Constitutional History*, New York, 1937.

important statutes will be found in *The Complete Statutes of England, Classified and Annotated in Continuation of Halsbury's Laws of England, Vol. 3 (Constitutional Law) and Vol. 5 (Dominions, Dependencies, Colonies and British Possessions)*. The statutes given in these volumes contain relatively little regarding social and economic policy for which reference may be made to the following volumes and titles of *The Complete Statutes of England*: 1, *Agriculture, Aliens, Allotments and Small Holdings, Bankers and Banking*; 2, *Building Societies, Charters, Commons and Rights of Common, Compulsory Purchase of Land and Compensation, Companies*; 3, *Copyright and Literary Property*; 6, *Ecclesiastical Law*; 7, *Education, Electric Lighting and Power*; 8, *Factories and Shops, Fisheries, Food and Drugs*; 9, *Industrial Provident and Similar Societies, Infants and Children*; 10, *Land Improvement, Landlord and Tenant*; 11, *Master and Servant, Medicine and Pharmacy*; 12, *Mines, Minerals and Quarries, Money and Money-Lending, Open Spaces and Recreation Grounds, Patents and Designs, Poor Law*; 13, *Press and Printing, Prisons, Public Health, Railways and Canals*; 17, *Savings Banks*; 18, *Shipping and Navigation*; 19, *Street and Aerial Traffic, Theatres and Other Places of Entertainment, Trade and Trade Unions, Trade Marks and Trade Names, Tramways*; 20, *Water Supply, Waters and Watercourses, Weights and Measures, Work and Labour*; and the continuation volumes and cumulative supplements for subsequent years.<sup>1</sup>

### Magna Carta, 1215<sup>2</sup>

9. Neither we nor our bailiffs shall seize any land or rent for any debt, so long as the chattels of the debtor are sufficient to repay the debt; nor shall the sureties of the debtor be restrained so long as the principal debtor is able to satisfy the debt; and if the principal debtor shall fail to pay the debt, having nothing wherewith to pay it, then the sureties shall answer for the debt; and let them have

<sup>1</sup>For general statements of the law regarding economic and social policy reference may be made to the following volumes and titles of *Halsbury's Laws of England*, second (Hailsham) edition: 1, *Agriculture, Aliens, Allotments, Bankers and Banking*; 4, *Charters, Commons and Rights of Common*; 5, *Companies*; 6, *Compulsory Purchase of Land and Compensation*; 7, *Copyright*; 11, *Ecclesiastical Law*; 12, *Education, Electricity Supply*; 14, *Factories and Shops*; 15, *Fisheries, Food and Drugs*; 17, *Industrial and Provident Societies, Industrial Assistance, Infants and Children*; 19, *Land Improvement*; 20, *Landlord and Tenant*; 22, *Master and Servant, Medicine and Pharmacy, Mines, Minerals and Quarries*; 23, *Money and Money-Lending*; 24, *Open Spaces and Recreation Grounds, Patents and Inventions*; 25, *Poor Law*; 26, *Press and Printing, Prisons, Public Health and Social Administration*; 27, *Railways and Canals*; 30, *Shipping and Navigation*; 31, *Small Holdings and Small Dwellings, Stock Exchange, Street and Aerial Traffic*; 32, *Theatres and Other Places of Entertainment, Town and Country Planning, Trade and Trade Unions, Trade Marks, Trade Names and Designs, Tramways and Light Railways*; 33, *Water and Watercourses, Weights and Measures*; 34, *Work and Labour, Workmen's Compensation*.

For digests of the case law bearing upon social and economic policy reference may be made to the following volumes and titles of *The English and Empire Digest*: 2, *Agriculture, Aliens, Allotments*; 3, *Bankers and Banking*; 7, *Building Societies*; 8, *Charities*; 9 and 10, *Companies*; 11, *Commons and Rights of Common, Compulsory Purchase of Land and Compensation*; 13, *Copyright and Literary Property*; 19, *Ecclesiastical Law, Education*; 20, *Electric Lighting and Power*; 24, *Factories and Shops*; 25, *Fisheries, Food and Drugs, Friendly Societies*; 28, *Industrial, Provident and Similar Societies, Infants and Children*; 30, *Land Improvement*; 30 and 31, *Landlord and Tenant*; 34, *Master and Servant, Medicine and Pharmacy, Mines, Minerals and Quarries*; 35, *Money, Money-Lending*; 36, *Open Spaces and Recreation Grounds, Patents and Inventions*; 37, *Poor Law, Press and Printing, Prisons*; 38, *Public Health and Local Administration, Railways and Canals*; 41, *Shipping and Navigation*; 42, *Small Holdings, Stock Exchange, Street and Aerial Traffic, Theatres and Other Places of Entertainment*; 43, *Trade and Trade Unions, Trade Marks, Trade Names and Designs, Tramways and Light Railways, Water Supply*; 44, *Waters and Watercourses, Weights and Measures, Work and Labour*.

<sup>2</sup>W. S. McKECHNIE: *Magna Carta*, 2nd edition, Glasgow, 1914.

the lands and rents of the debtor, if they desire them, until they are indemnified for the debt which they have paid for him, unless the principal debtor can show proof that he is discharged thereof as against the said sureties.

16. No one shall be distrained for performance of greater service for a knight's fee, or for any other free tenement, than is due therefrom.

28. No constable or other bailiff of ours shall take corn or other provisions from any one without immediately tendering money therefor, unless he can have postponement thereof by permission of the seller.

30. No sheriff or bailiff of ours, or other person, shall take the horses or carts of any freeman for transport duty, against the will of the said freeman.

31. Neither we nor our bailiffs shall take, for our castles or for any other work of ours, wood which is not ours, against the will of the owner of that wood.

33. All kydells for the future shall be removed altogether from Thames and Medway, and throughout all England, except upon the sea shore.

35. Let there be one measure of wine throughout our whole realm; and one measure of ale; and one measure of corn, to wit, "the London quarter"; and one width of cloth (whether dyed, or russet, or "halberget"), to wit, two ells within the selvages; of weights also let it be as of measures.

36. Nothing in future shall be given or taken for a writ of inquisition of life or limbs, but freely it shall be granted, and never denied.

39. No freeman shall be taken or (and) imprisoned or disseised or exiled or in any way destroyed, nor will we go upon him nor send upon him, except by the lawful judgment of his peers or (and) by the law of the land.

40. To no one will we sell, to no one will we refuse or delay, right or justice.

41. All merchants shall have safe and secure exit from England, and entry to England, with the right to tarry there and to move about as well by land as by water, for buying and selling by the ancient and right customs, quit from all evil tolls, except (in time of war) such merchants as are of the land at war with us. And if such are found in our land at the beginning of the war, they shall be detained, without injury to their bodies or goods, until information be received by us, or by our chief justiciar, how the merchants of our land found in the land at war with us are treated; and if our men are safe there, the others shall be safe in our land.

42. (*Not included in 1216 and later re-issues.*)

It shall be lawful in future for any one (excepting always those imprisoned or outlawed in accordance with the law of the kingdom, and natives of any country at war with us, and merchants, who shall be treated as is above provided) to leave our kingdom and to return, safe and secure by land and water, except for a short period in time of war, on grounds of public policy — reserving always the allegiance due to us.

60. Moreover, all these aforesaid customs and liberties, the observance of which we have granted in our kingdom as far as pertains to us towards our men, shall be observed by all of our kingdom, as well clergy as laymen, as far as pertains to them towards their men.

### Statute concerning Tallage, 1297<sup>1</sup>

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### Petition of Right, 1627<sup>2</sup>

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<sup>1</sup> *The Complete Statutes of England*, classified and annotated in continuation of *Halsbury's Laws of England*, Vol. 3, pp. 33-34.

<sup>2</sup> *Ibid.*, pp. 127-130.

Habeas Corpus Act, 1640<sup>1</sup>

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Statute of Shipmoney, 1640<sup>2</sup>

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Habeas Corpus Act, 1679<sup>3</sup>

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Bill of Rights, 1688<sup>4</sup>

.....

Act of Settlement, 1700<sup>5</sup>

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Parliament Act, 1911<sup>6</sup>

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The Statute of Westminster, 1931<sup>7</sup>

*22 Geo. 5, c. 4, 11 December 1931*

Whereas the delegates of His Majesty's Governments in the United Kingdom, the Dominion of Canada, the Commonwealth of Australia, the Dominion of New Zealand, the Union of South Africa, the Irish Free State and Newfoundland, and Imperial Conferences holden at Westminster in the years of Our Lord nineteen hundred and twenty-six and nineteen hundred and thirty did concur in making the declarations and resolutions set forth in the Reports of the said Conferences:

And whereas it is in accord with the established constitutional position that no law hereafter made by the Parliament of the United Kingdom shall extend to any of the said Dominions as part of the law of that Dominion otherwise than at the request and with the consent of that Dominion.

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<sup>1</sup> *The Complete Statutes of England*, classified and annotated in continuation of *Halsbury's Laws of England*, Vol. 24, Continuation Volume 1931, pp. 125-135.

<sup>2</sup> *Ibid.*, pp. 135-137.

<sup>3</sup> *Idem*, Vol. 5, pp. 82-92.

<sup>4</sup> *Idem*, Vol. 3, pp. 149-154.

<sup>5</sup> *Ibid.*, pp. 156-160.

<sup>6</sup> *Idem*, Vol. 12, pp. 512-514.

<sup>7</sup> *Idem*, Vol. 3, pp. 130-135.



4. *Parliament of United Kingdom not to legislate for Dominion except by consent.* No Act of Parliament of the United Kingdom passed after the commencement of this Act shall extend, or be deemed to extend, to a Dominion as part of the law of that Dominion unless it is expressly declared in that Act that that Dominion has requested, and consented to, the enactment thereof.

## The Colonial Development and Welfare Act, 1940<sup>1</sup>

*3 and 4 Geo. 6, c. 40, 17 July 1940*

1. *Schemes for colonial development and welfare.* (1) The Secretary of State, with the concurrence of the Treasury, may make schemes for any purpose likely to promote the development of the resources of any colony or the welfare of its people, and any sums required by the Secretary of State for the purpose of any such scheme shall be paid out of moneys provided by Parliament:

Provided that, unless Parliament otherwise determines:

- (a) The sums to be so paid for the purpose of any such schemes for promoting research or enquiry shall not in the aggregate exceed five hundred thousand pounds in any financial year; and
- (b) The sums to be so paid for the purposes of any other such schemes shall not in the aggregate exceed five million pounds in any financial year, and no such other scheme shall continue in force after the thirty-first day of March nineteen hundred and fifty-one.

(2) Before making any scheme under this section as respects any colony, the Secretary of State:

- (a) Shall satisfy himself, in a case where the scheme provides for the payment of the whole or part of the cost of the execution of any works, that the law of the colony provides reasonable facilities for the establishment and activities of trade unions, and that fair conditions of labour will be observed in the execution of the works and in particular:
  - (i) That the wages paid will be at not less than the rates recognised by employers and trade unions in the area where the works are to be executed or if there are no rates so recognised, at rates approved by the person for the time being administering the Government of the colony; and
  - (ii) That no children under such age as may be appropriate in the circumstances, but not in any case being less than fourteen years, will be employed on the works; and
- (b) Shall take into account the desirability of securing so far as possible that the colony shall participate in any increase in values directly attributable to the scheme.

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<sup>1</sup> *The Complete Statutes of England*, Vol. 33, Continuation Volume 1940, pp. 91-96.

## Channel Islands

### Alderney

Law relating to the Reform of the States of the Island of Alderney<sup>1</sup>

12 January 1916

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Agreement between the Royal Court of Guernsey and the Court of Alderney Determining their Respective Powers<sup>2</sup>

11 March 1925

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### Guernsey

Order in Council concerning the Constitution of the States of the Island<sup>3</sup>

13 December 1844

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Law concerning the Reform of the States of Deliberation<sup>4</sup>

8 August 1889

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<sup>1</sup> For text, see *Recueil d'ordres en conseil d'un intérêt général enregistrés sur les records de l'Île de Guernsey depuis l'année 1800*, Vol. V, pp. 156-162. For amendments, see Vol. VI, pp. 472-474, Vol. VII, pp. 165-171, and Vol. IX, pp. 405-409.

<sup>2</sup> *Idem*, Vol. VII, 1922-1926, pp. 441-444.

<sup>3</sup> *Idem*, Vol. I, 1803-1868, pp. 91-107. For supplementary articles of 13 June 1853, see *ibid.*, pp. 234-236; for further supplementary articles of 28 July 1864, see *ibid.*, pp. 406-408; for amendment of 27 May 1915, see Vol. V, pp. 118-121.

<sup>4</sup> *Idem*, Vol. V, pp. 162-167. For amendments, see Vol. IV, pp. 396-400, Vol. VI, pp. 255-263 and Vol. VII, pp. 161-165.

Law concerning the States of Election<sup>1</sup>*15 June 1901*

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**Jersey**Regulation Increasing the Number of Members of the States<sup>2</sup>*29 December 1856*

.....

**Sark**Constitution of the Island of Sark<sup>3</sup>*20 June 1922*

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**Isle of Man**The Isle of Man Constitution Amendment Act, 1919<sup>4</sup>

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The Isle of Man Constitution Amendment Act, 1936<sup>5</sup>

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<sup>1</sup> For text, see *Recueil d'ordres en conseil d'un intérêt général enregistrés sur les records de l'Île de Guernsey depuis l'année 1800*, Vol. III, pp. 250-253.

<sup>2</sup> For text, see *Lois et règlements passés par les Etats de Jersey revêtus de la sanction Royale*, Vol. II, pp. 81-85.

<sup>3</sup> For text, see *Recueil d'ordres en conseil d'un intérêt général enregistrés sur les records de l'Île de Guernsey depuis l'année 1800*, Vol. VI, pp. 412-421. For an amendment, see Vol. VII, pp. 108-112.

<sup>4</sup> For text, see *The Statutes of the Isle of Man*, Vol. X, 1916-1920, pp. 390-397.

<sup>5</sup> *Idem*, Vol. XII, 1925-1929, p. vii.

## Northern Ireland

### Government of Ireland Act 1920 (10 & 11 Geo. 5, Ch. 67)<sup>1</sup>

4. (1) Subject to the provisions of this Act, the Parliament of Southern Ireland and the Parliament of Northern Ireland shall respectively have power to make laws for the peace, order and good government of Southern Ireland and Northern Ireland with the following limitations, namely, that they shall not have power to make laws except in respect of matters exclusively relating to the portion of Ireland within their jurisdiction, or some part thereof, and (without prejudice to that general limitation) that they shall not have power to make laws in respect of the following matters in particular, namely:

(iii) The navy, the army, the air force, the territorial force, or any other naval, military, or air force, or the defence of the realm, or any other naval, military or air force matter (including any pensions and allowances payable to persons who have been members of or in respect of service in any such force or their widows or dependants, and provision for the training, education, employment and assistance for the reinstatement in civil life of persons who have ceased to be members of any such force); or

(iv) Treaties or any relations with foreign States, or relations with other parts of His Majesty's dominions, or matters involving the contravention of treaties or agreements with foreign States or any part of His Majesty's dominions, or offences connected with any such treaties or relations, or procedure connected with the extradition of criminals under any treaty, or the return of fugitive offenders from or to any part of His Majesty's dominions; or

(vii) Trade with any place out of the part of Ireland within their jurisdiction, except so far as trade may be affected by the exercise of the powers of taxation given to the said Parliaments, or by regulations made for the sole purpose of preventing contagious disease, or by steps taken by means of enquiries or agencies out of the part of Ireland within their jurisdiction for the improvement of the trade of that part or for the protection of traders of that part from fraud; the granting of bounties on the export of goods; quarantine; navigation, including merchant shipping (except as respects inland waters, the regulation of harbours, and local health regulations); or

(viii) Submarine cables; or

(ix) Wireless telegraphy; or

(x) Aerial navigation; or

(xi) Lighthouses, buoys or beacons (except so far as they can consistently with any general Act of the Parliament of the United Kingdom be constructed or maintained by a local harbour authority); or

(xii) Coinage; legal tender; negotiable instruments (including bank notes) except so far as negotiable instruments may be affected by the exercise of the powers of taxation given to the said Parliaments; or any change in the standard of weights and measures; or

(xiii) Trade marks, designs, merchandise marks, copyright, or patent rights; or

(xiv) Any matter which by this Act is declared to be a reserved matter, so long as it remains reserved.

Any law made in contravention of the limitations imposed by this section shall, so far as it contravenes those limitations, be void.

5. (1) In the exercise of their power to make laws under this Act neither the Parliament of Southern Ireland nor the Parliament of Northern Ireland shall make

<sup>1</sup> Text from *Constitutions of All Countries*, Vol. I, pp. 5-18.

a law so as either directly or indirectly to establish or endow any religion, or prohibit or restrict the free exercise thereof, or give a preference, privilege, or advantage, or impose any disability or disadvantage, on account of religious belief or religious or ecclesiastical status, or make any religious belief or religious ceremony a condition of the validity of any marriage, or affect prejudicially the right of any child to attend a school receiving public money without attending the religious instruction at that school, or alter the constitution of any religious body except where the alteration is approved on behalf of the religious body by the governing body thereof, or divert from any religious denomination the fabric of cathedral churches, or, except for the purpose of roads, railways, lighting, water, or drainage works, or other works of public utility upon payment of compensation, any other property, or take any property without compensation.

Any law made in contravention of the restrictions imposed by this sub-section shall, so far as it contravenes those restrictions, be void.

(2) Any existing enactment by which any penalty, disadvantage, or disability is imposed on account of religious belief or on a member of any religious order as such shall, as from the appointed day, cease to have effect in Ireland.

6. (1) Neither the Parliament of Southern Ireland nor the Parliament of Northern Ireland shall have power to repeal or alter any provision of this Act (except as is specifically provided by this Act), or of any Act passed by the Parliament of the United Kingdom after the appointed day and extending to the part of Ireland within their jurisdiction, although that provision deals with a matter with respect to which the Parliament has power to make laws.

(2) Where any Act of the Parliament of Southern Ireland or the Parliament of Northern Ireland deals with any matter with respect to which that Parliament has power to make laws which is dealt with by any Act of the Parliament of the United Kingdom passed after the appointed day and extending to the part of Ireland within its jurisdiction, the Act of the Parliament of Southern Ireland or the Parliament of Northern Ireland shall be read subject to the Act of the Parliament of the United Kingdom, and so far as it is repugnant to that Act, but no further, shall be void.

(3) Any order, rule or regulation made in pursuance of, or having the force of, an Act of Parliament of the United Kingdom shall be deemed to be a provision of an Act within the meaning of this section.

75. Notwithstanding the establishment of the Parliaments of Southern and Northern Ireland, or the Parliament of Ireland, or anything contained in this Act, the supreme authority of the Parliament of the United Kingdom shall remain unaffected and undiminished over all persons, matters, and things in Ireland and every part thereof.

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## GREECE

### Constitution of 1 (14) June 1911<sup>1</sup>

#### CONCERNING THE PUBLIC RIGHTS OF THE GREEKS

3. The Greeks are equal in the eye of the law and contribute without distinction to the public burdens according to their ability. . .

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<sup>1</sup> English text from *British and Foreign State Papers*, Vol. 108, 1914, Part II, pp. 482-497; for Greek text see *Ephemeris tes Kyberneseos* (Ἐφημερίς τῆς Κυβερνήσεως), (*Greek Government Gazette*, 1 (14) June 1911).

4. Personal liberty is inviolable. . .

9. Each individual or many together possess the right, on conforming with the laws of the Realm, to address petitions in writing to the public authorities, who are bound to take prompt action and to furnish the petitioner with an answer in writing, in accordance with the provisions of the law. Only after the final decision of the authority to whom the petition was addressed, and by leave of that authority, may enquiry be made as to responsibility on the part of the petitioner for offences contained in the petition.

10. The Greeks have the right to meet quietly and unarmed; only at public assemblages the police may be present. Assemblages in the open air may be prohibited if danger to public security is imminent from them.

11. The Greeks possess the right of association conforming with the laws of the State, and in no case can the laws subject this right to previous permission on the part of the Government.

An association cannot be dissolved for infractions of the provisions of the laws except by judicial decision.

13. In Greece human beings may neither be bought nor sold; a slave, purchased or otherwise, of every race and every religion, is free from the time he sets foot on Greek soil.

14. Everyone may publish his opinions by speech, by writing or by printing, observing the laws of the Realm. The press is free. Censorship and every other preventive measure is prohibited. The seizure of newspapers and other printed treaties, whether before or after publication, is likewise prohibited. Exceptionally seizure after publication is permitted on account of insult to the Christian religion or to the person of the King, or, in cases determined by law, on account of indecent publications manifestly offending public decency; but in such case, within twenty-four hours after the seizure, both the Public Prosecutor must submit the case to the Judicial Council and the Council must decide whether the seizure is to be maintained or withdrawn, otherwise the seizure is *de jure* raised. Appeal is allowed against the order only to the publisher of the article seized, and not to the Public Prosecutor.

The publication of news or communications relating to military movements or to the fortifications of the country may be prohibited in such manner as the law shall direct, under threat of seizure and criminal prosecution. In case of seizure the provisions above stipulated are applied.

Both the publisher of a newspaper and the author of a reprehensible publication relating to private life, in addition to the penalty imposed according to the terms of the criminal law, are civilly and conjointly liable fully to redress any loss occasioned, and to indemnify the injured party in a sum of money fixed at the discretion of the judge, but never less than 200 drachmas.

Only Greek citizens are allowed to publish newspapers.

16. Education, which is under the supreme supervision of the State, is conducted at the State expense.

Elementary education is obligatory for all, and is given free by the State.

Private persons and corporations are allowed to establish private schools conducted in accordance with the Constitution and the laws of the Realm.

17. No one may be deprived of his property except for the public benefit fully proven, when and as the law directs and always after indemnification. The indemnification is always fixed through the judicial channel. In case of urgency it may be provisionally fixed judicially after the beneficiary has been heard or summoned, and the beneficiary may be obliged, at the discretion of the Judge, to give a proportionate guarantee in the manner defined by law. Until the final or provisional indemnification fixed is paid, all the rights of the proprietor are maintained intact, dispossession not being permitted.

Special laws settle the details respecting the proprietorship and disposal of mines, quarries, archaeological treasures, and mineral and running waters.

## Constitution of 2 June 1927<sup>1</sup>

*(This Constitution ceased to be in force on 11 October 1935 when the re-establishment of the Constitution of 1911 was proclaimed.)*

### CHAPTER III

#### *The Public Rights of the Greeks*

7. All persons in the territory of the Greek Republic enjoy complete protection as regards life and liberty, without distinction of nationality, religion or language. Exceptions are authorised in the cases provided for by international law.

16. . . . . Special measures may be taken by law to suppress literature which constitutes an offence to morals and to protect young persons against unsuitable public performances.

. . . . .  
Press offences shall not be deemed to be flagrant offences.

19. No one may be deprived of his property, except after payment of compensation and for reasons of public utility duly established in the cases and under the conditions prescribed by law. The compensation shall always be fixed by the ordinary courts. In urgent cases, it may be fixed provisionally by judicial procedure, after the persons concerned have been heard or summoned to appear; the said parties may be compelled, at the discretion of the court, to deposit suitable security in the manner prescribed by law. Until the final or provisional compensation has been paid, all the rights of the proprietor are maintained intact, and occupation of his property is prohibited.

Special laws shall be enacted to govern the ownership and disposal of mines, quarries, archaeological treasures, mineral waters on the surface or underground.

Special laws shall be enacted likewise to govern requisitioning for the requirements of the Army or the Navy, in the event of war or mobilisation, or for any immediate social necessities likely to endanger public order or public health.

20. The tenour or the clauses of a will or a donation shall not be modified in any respect in such a manner as to affect provisions in favour of the State or any public interest.

By way of exception, if it becomes absolutely impossible to carry out the wishes of the donor or testator, the donation or bequest may be allocated by law to another similar purpose.

21. Art and science and instruction therein are free. They are placed under the protection of the State, which shall take part in the diffusion thereof.

22. Intellectual and manual work is under the protection of the State, which shall systematically promote the moral and material progress of the working classes, both in urban and rural districts.

23. Education is placed under the supreme supervision of the State. It shall be provided at the expense of the State or at the expense of autonomous local administrative bodies.

Primary education is compulsory; it is provided free of charge by the State. The number of years of compulsory attendance at elementary schools shall be fixed by law but shall not in any case be less than six. Attendance at schools for

<sup>1</sup> English translation by the International Labour Office; for Greek text, see *Ephemeris tes Kyberneseos* (Ἐφημερίς τῆς Κυβερνήσεως), (*Greek Government Gazette*, 1927, Part I, No. 107, p. 765).

the purpose of completing primary education up to the age of eighteen years may also be made compulsory by law.

Private individuals and bodies corporate may found independent schools carried on in conformity with the Constitution and the laws of the State.

24. Marriage, as the basis of family life, and of the maintenance and progress of the nation, is placed under special State protection.

Large families are entitled to special privileges.

25. Any individual or any group of persons is entitled to address petitions in writing to the public authorities, in conformity with the laws of the State. The authorities are bound to take prompt action and to reply in writing to all petitions submitted in conformity with the law. A penal action shall not be brought against the petitioner on the ground of contraventions contained in the petition until the competent authority has given a final decision and has authorised the bringing of the penal action in question.

### CHAPTER XIII

#### *Transitional Provisions*

119. For the purpose of the settlement of farmers who have no land, of small stock-breeders and of rural or urban refugees, exceptions to the provisions of article 19 shall be allowed for a period of five years in the manner to be prescribed in each case by law and subject to the following restrictions.

In the case of the settlement of refugees in urban districts, waste land may be expropriated and occupied before compensation is paid for the purpose of building groups of at least twenty houses, on an area which shall not be less than two thousand square meters or for the purpose of completing existing groups of houses. The increase in the value of land caused by the influx of refugees shall not be included in the compensation, which shall in this case be calculated according to the average price in September 1922 calculated in drachmai.

Land on which groups of not less than twenty houses for refugees have already been built and which covers a total area of not less than two thousand square meters shall be subject to expropriation and the compensation shall be calculated as follows.

In the case of the expropriation of grass land for the exclusive purpose of the settlement of small stock-breeders, the amount of the compensation shall not be less than either two-thirds of the average value of the meadow land in drachmai during the period of three years immediately preceding September 1914, or the lawful rent for the year 1926-27 multiplied by fifteen. Communal and exchangeable grass land shall not be subject to the provisions of this article.

The following land shall be exempt from expropriation under this article:

1. Small property which is cultivated personally by the owner and his family;
2. Holdings cultivated in any manner whatever but not exceeding 300 stremmas (30 hectares);
3. Grass land not exceeding 300 stremmas for the independent establishment of small farmers;
4. Sites for the establishment of refugees in urban districts covering an area of less than 500 square meters;
5. Building sites belonging to persons owning rural property which has already been expropriated;
6. Plantations not burdened by perpetual charges, vineyards, olive groves, fruit trees and forests, in so far as they are excepted under the Agrarian Act in force and belong to individuals.

Special Acts adopted even by way of exception to article 19 shall lay down rules for the expropriation of conventual property.



Acts hitherto promulgated respecting the redemption of property rented under a long lease or respecting exemptions from leasing or other charges are deemed not to be contrary to the Constitution.

### Mount Athos

#### Constitutional Charter of the Holy Mount Athos<sup>1</sup>

10 May 1924

.....

### HUNGARY

#### Golden Bull of King Andrew II, of the Year 1222<sup>2</sup>

2. It is our will also that neither We nor Our Successors shall at any time arrest a noble, or ruin a noble for the benefit of any puissant person unless such noble has previously been summoned and convicted in conformity with judicial procedure.

3. Further, We shall not levy any tax or poll tax on the moneys of the nobles, and We shall not lodge in their houses or on their lands unless invited by them to do so. We shall not levy any tax on the clergy.

17. No one shall ever be deprived of property which he has acquired in return for actual services.

28. No puissant person shall protect any one who has been duly convicted in the law courts.

#### Act respecting Equality of Taxation, No. 8 of 1848<sup>3</sup>

All inhabitants of Hungary and of its dependencies, without distinction, are subject to all public taxes equally and in proportion to their capacity.

<sup>1</sup> An English translation of the Charter is available in *British and Foreign State Papers*, Vol. 132, 1930, Part I, pp. 781-810; for the original Greek text, see *Ephemeris tes Kyberneseos* ('Εφημερίς τῆς Κυβερνήσεως'), 16 Sept. 1926, which also contains the Legislative Decree of 10 Sept. 1926, ratifying the Charter.

<sup>2</sup> English translation from DARESTE: *Les constitutions modernes*, 4th edition, Vol. II, 1929, pp. 14-18.

<sup>3</sup> *Ibid.*, p. 25.

### Act respecting the Press, No. 18 of 1848<sup>1</sup>

Previous censorship having been abolished forever and the freedom of the press having been established, that freedom shall be provisionally guaranteed by the following provisions:

1. Every person is entitled to express his thoughts freely through the press and to spread them freely. . .

### Act respecting Religion, No. 20 of 1848<sup>2</sup>

2. Complete equality and reciprocity, without distinction of any kind, are established for all religious denominations recognised by law in this country.

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## ICELAND

### Constitutional Law of the Kingdom of Iceland<sup>3</sup>

18 May 1920

#### V

60. No-one can be deprived of the full enjoyment of his civil and political rights or evade the fulfilment of any duty as a citizen on account of his creed.

No-one shall be obliged to give any personal contribution to any other divine worship than his own.

Anyone outside the National Church shall pay to the University of Iceland or to a sustentation fund attached to that college the same contributions as he would otherwise have given to the State Church provided, however, that he does not belong to any other religious community acknowledged in the country.

. . . . .

#### VI

63. The right of possession is inviolable. No-one can be obliged to surrender his property, unless for the benefit of the public weal; this can only be done by law and on full compensation being paid.

64. No foreigner can acquire nationality except by law.

A foreigner's right to possess real property in the country shall be regulated by law.

65. No restrictions on the freedom of trade can be made except by law or for reasons of public welfare.

66. Anyone who is unable to support himself or his family, and whose maintenance is not the obligation of any other person, is entitled to receive relief

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<sup>1</sup> English translation from DARESTE: *Les constitutions modernes*, 4th edition, Vol. II, 1929, p. 25.

<sup>2</sup> *Ibid.*, p. 25.

<sup>3</sup> English translation from *British and Foreign State Papers*, Vol. 125, 1926, Part III, pp. 850-860.

from public funds, but shall in this case be subject to such obligations as the law prescribes.

67. Should parents not possess means to provide for the education of their children, or should the children be orphans or poor, their instruction and maintenance shall be provided for out of public funds.

68. Every person has a right to publish his thoughts in print; he is, however, responsible to the courts. Censorship and other hindrances of the freedom of the press can never be established by law.

69. Citizens have a right to establish associations for every lawful purpose, without obtaining permission. No society can be dissolved by a Government measure. A society can nevertheless be provisionally prohibited, but action must immediately be brought against it for its dissolution.

70. Citizens have a right to assemble unarmed. The police have a right to be present at public assemblies. Open-air meetings may be prohibited should it be feared that danger of disturbances might ensue.

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## IRELAND

### Constitution, 1937<sup>1</sup>

In the name of the Most Holy Trinity, from Whom is all authority and to Whom, as our final end, all actions both of men and States must be referred,

We, the people of Eire,

Humbly acknowledging all our obligations to our Divine Lord, Jesus Christ, Who sustained our fathers through centuries of trial,

Gratefully remembering their heroic and unremitting struggle to regain the rightful independence of our nation,

And seeking to promote the common good with the observance of prudence, justice and charity, so that the dignity and freedom of the individual may be assured, true social order attained, the unity of our country restored, and concord established with other nations,

Do hereby adopt, enact, and give to ourselves this Constitution.

### THE NATION

1. The Irish nation hereby affirms its inalienable, indefeasible, and sovereign right to choose its own form of Government, to determine its relations with other nations, and to develop its life, political, economic and cultural, in accordance with its own genius and traditions.

### THE STATE

10. (1) All natural resources, including the air and all forms of potential energy within the jurisdiction of the Parliament and Government established by this Constitution and all royalties and franchises within that jurisdiction belong

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<sup>1</sup> Text from *Constitutions of All Countries*, Vol. I, pp. 190-221. For the text of the Irish Free State Constitution, 1922, as amended to 1936, see *Constitution of the Irish Free State (Saorstát Eireann) Act, 1922*, embodying the Constitution as amended by subsequent enactments. Presented to Dáil Eireann by the Ceann Comhairle. Stationery Office, Dublin, 1936.

to the State, subject to all estates and interests therein for the time being lawfully vested in any person or body.

(2) All land and all mines, minerals and waters which belonged to Saorstát Éireann immediately before the coming into operation of this Constitution belong to the State to the same extent as they then belonged to Saorstát Éireann.

(3) Provision may be made by law for the management of the property which belongs to the State by virtue of this article and for the control of the alienation, whether temporary or permanent, of that property.

(4) Provision may also be made by law for the management of land, mines, minerals and waters acquired by the State after the coming into operation of this Constitution and for the control of the alienation, whether temporary or permanent, of the land, mines, minerals and waters so acquired.

## INTERNATIONAL RELATIONS

29. (1) Ireland affirms its devotion to the ideal of peace and friendly co-operation amongst nations founded on international justice and morality.

(3) Ireland accepts the generally recognised principles of international law as its rule of conduct in its relations with other States.

## FUNDAMENTAL RIGHTS

### *Personal Rights*

40. (1) All citizens shall, as human persons, be held equal before the law.

This shall not be held to mean that the State shall not in its enactments have due regard to differences of capacity, physical and moral, and of social function.

(3) 1° The State guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate the personal rights of the citizen.

2° The State shall, in particular, by its laws protect as best it may from unjust attack and, in the case of injustice done, vindicate the life, person, good name and property rights of every citizen.

(4) 1° No citizen shall be deprived of his personal liberty save in accordance with law.

(6) 1° The State guarantees liberty for the exercise of the following rights, subject to public order and morality:

(i) The right of the citizens to express freely their convictions and opinions.

The education of public opinion being, however, a matter of such grave import to the common good, the State shall endeavour to ensure that organs of public opinion, such as the radio, the press, the cinema, while preserving their rightful liberty of expression, including criticism of Government policy, shall not be used to undermine public order or morality or the authority of the State.

The publication or utterance of blasphemous, seditious or indecent matter is an offence which shall be punishable in accordance with law.

(ii) The right of the citizens to assemble peaceably and without arms. Provision may be made by law to prevent or control meetings which are determined in accordance with law to be calculated to cause a breach of the peace or to be a danger or nuisance to the general public and to prevent or control meetings in the vicinity of either House of the Oireachtas.

(iii) The rights of the citizens to form associations and unions.

Laws, however, may be enacted for the regulation and control in the public interest of the exercise of the foregoing right.

2° Laws regulating the manner in which the right of forming associations and unions and the right of free assembly may be exercised shall contain no political, religious or class discrimination.

### *The Family*

41. (1) 1° The State recognises the family as the natural primary and fundamental unit group of society, and as a moral institution possessing inalienable and imprescriptible rights, antecedent and superior to all positive law.

2° The State, therefore, guarantees to protect the family in its Constitution and authority, as the necessary basis of social order and as indispensable to the welfare of the nation and the State.

(2) 1° In particular, the State recognises that by her life within the home, woman gives to the State a support without which the common good cannot be achieved.

2° The State shall, therefore, endeavour to ensure that mothers shall not be obliged by economic necessity to engage in labour to the neglect of their duties in the home.

(3) 1° The State pledges itself to guard with special care the institution of marriage, on which the family is founded, and to protect it against attack.

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### *Education*

42. (1) The State acknowledges that the primary and natural educator of the child is the family and guarantees to respect the inalienable right and duty of parents to provide, according to their means, for the religious and moral, intellectual, physical and social education of their children.

(2) Parents shall be free to provide this education in their homes or in private schools or in schools recognised or established by the State.

(3) 1° The State shall not oblige parents in violation of their conscience and lawful preference to send their children to schools established by the State, or to any particular type of school designated by the State.

2° The State shall, however, as guardian of the common good, require in view of actual conditions that the children receive a certain minimum education, moral, intellectual and social.

(4) The State shall provide for free primary education and shall endeavour to supplement and give reasonable aid to private and corporate educational initiative, and, when the public good requires it, provide other educational facilities or institutions with due regard, however, for the rights of parents, especially in the matter of religious and moral formation.

(5) In exceptional cases, where the parents for physical or moral reasons fail in their duty towards their children, the State as guardian of the common good, by appropriate means shall endeavour to supply the place of the parents, but always with due regard for the natural and imprescriptible rights of the child.

### *Private Property*

43. (1) 1° The State acknowledges that man, in virtue of his rational being, has the natural right, antecedent to positive law, to the private ownership of external goods.

2° The State accordingly guarantees to pass no law attempting to abolish the right of private ownership or the general right to transfer, bequeath and inherit property.

(2) 1° The State recognises, however, that the exercise of the rights mentioned in the foregoing provisions of this article ought, in civil society, to be regulated by the principles of social justice.

2° The State, accordingly, may as occasion requires delimit by law the exercise of the said rights with a view to reconciling their exercise with the exigencies of the common good.

### *Religion*

44. (2) 1° Freedom of conscience and the free profession and practice of religion are, subject to public order and morality, guaranteed to every citizen.

3° The State shall not impose any disabilities or make any discrimination on the ground of religious profession, belief or status.

4° Legislation providing State aid for schools shall not discriminate between schools under the management of different religious denominations, nor be such as to affect prejudicially the right of any child to attend a school receiving public money without attending religious instruction at that school.

5° Every religious denomination shall have the right to manage its own affairs, own, acquire and administer property, movable and immovable, and maintain institutions for religious or charitable purposes.

6° The property of any religious denomination or any educational institution shall not be diverted save for necessary works of public utility and on payment of compensation.

### DIRECTIVE PRINCIPLES OF SOCIAL POLICY

45. The principles of social policy set forth in this article are intended for the general guidance of the Oireachtas. The application of those principles in the making of laws shall be the care of the Oireachtas exclusively, and shall not be cognisable by any court under any of the provisions of this Constitution.

(1) The State shall strive to promote the welfare of the whole people by securing and protecting as effectively as it may a social order in which justice and charity shall inform all the institutions of the national life.

(2) The State shall, in particular, direct its policy towards securing:

- (i) That the citizens (all of whom, men and women equally, have the right to an adequate means of livelihood) may through their occupations find the means of making reasonable provision for their domestic needs;
- (ii) That the ownership and control of the material resources of the community may be so distributed amongst private individuals and the various classes as best to subserve the common good;
- (iii) That, especially, the operation of free competition shall not be allowed so to develop as to result in the concentration of the ownership or control of essential commodities in a few individuals to the common detriment;
- (iv) That in what pertains to the control of credit the constant and predominant aim shall be the welfare of the people as a whole;
- (v) That there may be established on the land in economic security as many families as in the circumstances shall be practicable.

(3) 1° The State shall favour and, where necessary, supplement private initiative in industry and commerce.

2° The State shall endeavour to secure that private enterprise shall be

so conducted as to ensure reasonable efficiency in the production and distribution of goods and as to protect the public against unjust exploitation.

(4) 1° The State pledges itself to safeguard with especial care the economic interests of the weaker sections of the community, and, where necessary, to contribute to the support of the infirm, the widow, the orphan, and the aged.

2° The State shall endeavour to ensure that the strength and health of workers, men and women, and the tender age of children shall not be abused and that citizens shall not be forced by economic necessity to enter avocations unsuited to their sex, age or strength.

## ITALY

### Fundamental Statute of 4 March 1848<sup>1</sup>

#### THE RIGHTS AND DUTIES OF CITIZENS

24. All inhabitants of the Kingdom, whatever their rank or title, are equal before the law.

All shall equally enjoy civil and political rights and shall be eligible to civil and military office, except as otherwise provided by law.

25. All shall contribute without distinction to the burdens of the State, in proportion to their possessions.

26. Individual liberty is guaranteed.

28. The press shall be free, but the law may suppress abuses of this freedom.

Nevertheless, bibles, catechisms, liturgical and prayer books shall not be printed without the previous consent of the bishop.

29. All property, without exception, is inviolable.

Nevertheless, when the public interest, legally ascertained, requires it, a person may be bound to give it up, in whole or in part, upon payment of a just indemnity in accordance with the law.

31. The public debt is guaranteed.

All obligations of the State to its creditors are inviolable.

32. The right to assemble peaceably and without arms is recognised, subject, however, to the laws that may regulate its exercise in the interest of the public welfare.

This provision is not applicable to meetings in public places or places open to the public, which remain entirely subject to police laws.

### Labour Charter, 21 April 1927<sup>2</sup>

#### *The Corporative State and its Organisation*

I. The Italian nation is an organism having aims, a life and means of action superior in power and duration to those of the separate individuals or groups

<sup>1</sup> English translation from McBAIN and ROGERS: *The New Constitutions of Europe*, pp. 550-564.

<sup>2</sup> English translation from INTERNATIONAL LABOUR OFFICE: *Legislative Series*, 1927, It. 3; for Italian text, see *Gazzetta Ufficiale*, 30 Apr. 1927, No. 100, p. 1794.

composing it. It is a moral, political and economic unity of which the Fascist State is the complete expression.

II. Labour in all its organising and executive forms — intellectual, technical and manual — is a social duty. This, and this alone, constitutes its title to State protection.

The whole body of production is a unit from the national point of view; its objects are comprehensive, and may be summed up as the welfare of individuals and the development of the power of the nation.

III. Trade or occupational organisation is free. Nevertheless, only trade associations which are legally recognised and placed under the supervision of the State have the right to represent at law the whole category of employers or workers for which they are formed, to safeguard their interests in relation to the State and to other trade associations, to conclude collective contracts of employment binding on all persons belonging to the category concerned, to levy contributions upon them and to exercise in respect of them any public functions entrusted to them.

IV. The solidarity between the various factors of production is expressed in concrete form in the collective contract of employment, by means of the reconciliation of the opposing interests of employers and workers and the subordination thereof to the higher interests of production.

V. The labour courts are the machinery for the settlement by the State of labour disputes, whether these relate to the observance of agreements and other existing rules or to the establishment of new conditions of labour.

VI. Legally recognised trade associations shall ensure equality before the law between employers and workers, and maintain discipline in production and employment and promote its improvement.

The corporations constitute the comprehensive organisation of the forces of production and represent the interests of production as a whole.

By reason of this comprehensive representation, and inasmuch as the interests of production are national interests, the corporations are recognised by the law as organs of the State.

As bodies representative of the general interests of production, the corporations may issue binding rules concerning the regulation of relations in connection with employment and the co-ordination of production whenever authorised to do so by the affiliated associations.

VII. The corporative State regards private enterprise in the field of production as the most efficient and useful instrument for national interests.

Inasmuch as the private organisation of production is a function of national importance, the organiser of every undertaking is responsible to the State for the guidance of production. Collaboration between the factors of production entails reciprocal rights and duties. The worker, whether a technical, salaried or wage-earning employee, is an active collaborator in the economic undertaking, the direction of which devolves upon the employer who is responsible for it.

VIII. Trade associations of employers shall be bound to promote in every way the increase and improvement of production and the reduction of costs. The representatives of persons engaged in liberal professions or arts, and the associations of public employees, shall co-operate in safeguarding the interests of art, science and literature, in the improvement of production and in the attainment of the moral objects of the corporative system.

IX. The State shall not intervene in economic production except when private enterprise is lacking or is inadequate, or when the political interests of the State are at stake. Such intervention may take the form of supervision, encouragement or direct management.

X. In collective labour disputes, recourse shall not be had to a legal action until the corporative organ has attempted conciliation.

In individual disputes respecting the interpretation and carrying out of



collective contracts of employment, trade associations shall have the right to offer their services for the purpose of conciliation.

The ordinary courts shall be competent to deal with such disputes, with the assistance of assessors appointed by the trade associations concerned.

*Collective Contracts of Employment and Labour Protection*

XI. It shall be the duty of trade associations to enter into collective contracts to govern the labour relations between the categories of employers and workers which they represent.

Collective contracts of employment shall be concluded between associations of the first degree under the direction and supervision of the central organisation, provided that the higher association may take the place of the association of the first degree in the cases specified by law and by the rules.

Every collective contract of employment shall contain definite rules respecting discipline, periods of probation, the rates and methods of payment of remuneration, and hours of work; in default thereof the contract shall be null and void.

XII. The adjustment of wages to the normal requirements of life, the possibilities of production and the output of labour shall be ensured by means of trade association action, the conciliation work of corporative organs, and the awards of the labour courts.

The fixing of wages shall not be governed by any general rules, but shall be subject to agreement between the parties to collective contracts.

XIII. The data collected by public departments, the Central Statistical Institute and legally recognised trade associations respecting conditions of production and labour, the state of the money market and variations in the workers' standard of living, collated and prepared by the Ministry of Corporations, shall serve as the criterion for the adjustment of the interests of the various categories and classes among themselves and of these interests with the higher interests of production.

XIV. Remuneration shall be paid in the manner best suited to the requirements of the worker and the undertaking.

Where remuneration is fixed by the piece and payment for piece work takes place at intervals of more than a fortnight, adequate payments on account shall be made fortnightly or weekly.

Payment shall be made at a higher rate for night work not included in regular periodical shifts than for day work.

When work is paid for by the piece, the piece rates shall be fixed so that it is possible for an industrious worker of normal working capacity to secure minimum earnings higher than the basic wage.

XV. Workers shall be entitled to a weekly rest day falling on Sunday.

Collective contracts of employment shall apply this principle with due regard to the provisions of existing laws and the technical requirements of undertakings, and, subject to these requirements, shall ensure that civil and religious holidays are observed in conformity with local tradition. The time-table of hours of work shall be scrupulously and strictly observed by the workers.

XVI. Every worker in an undertaking working throughout the year shall be entitled to an annual holiday with pay after one year's uninterrupted service.

XVII. In undertakings working throughout the year, if a worker is dismissed through no fault of his own, he shall be entitled to compensation proportionate to the number of years for which he has served. Such compensation shall also be payable in the event of the death of the worker.

XVIII. In undertakings working throughout the year, the transfer of the undertaking to another owner shall not terminate the contract of employment, and the staff employed in the undertaking shall retain its rights under the new pro-

prietor. Similarly the sickness of the worker shall not terminate the contract of employment, provided that it does not exceed a certain fixed period. A worker shall not be dismissed because he has been called up for service in the army or the militia (M. V. S. N.).

XIX. If workers commit breaches of discipline or acts which disturb the normal working of the undertaking, they shall be punished, according to the gravity of the offence, by a fine, suspension from employment, or, in more serious cases, summary dismissal without compensation.

The cases in which the employer may inflict a fine or may suspend or summarily dismiss a worker without compensation shall be specified.

XX. A newly engaged worker shall be subject to a period of probation during which the right to cancel the contract may be exercised by either party, subject only to payment of remuneration for the time during which work was actually performed.

XXI. The benefits and obligations laid down in collective contracts of employment shall apply equally to home workers. Special rules shall be prescribed by the State to ensure the supervision and hygiene of home work.

### *Employment Exchanges*

XXII. The State shall investigate and supervise the phenomena of employment and unemployment among workers, which together form an index of the conditions of production and employment.

XXIII. Employment exchanges shall be set up on a joint basis under the supervision of the corporative organs of the State. Employers shall be bound to engage workers through these exchanges. They shall be at liberty to choose among the persons on the register, giving preference to members of the Fascist Party and Fascist trade associations according to seniority in registration.

XXIV. The trade associations of workers shall be bound to exercise selective action among workers, with a view to improving their technical ability and moral value.

XXV. The corporative organs shall see that the laws respecting the prevention of accidents and respecting labour protection are observed by the various members of the affiliated associations.

### *Social Insurance, Public Relief, Education and Training*

XXVI. Social insurance is a lofty manifestation of the principle of co-operation. The employer and the worker shall contribute proportionately to the cost thereof. The State acting through the corporative organs and the trade associations shall endeavour to co-ordinate and standardise as far as possible the insurance system and institutions.

XXVII. The aims of the Fascist State are as follows:

1. To perfect the system of accident insurance;
2. To improve and extend maternity insurance;
3. To introduce a system of insurance against occupational diseases and tuberculosis, with a view to the introduction of a general system of insurance against all diseases;
4. To perfect the system of insurance against involuntary unemployment;
5. To adopt special forms of endowment insurance for young workers.

XXVIII. It shall be the duty of workers' organisations to safeguard the interests of the persons whom they represent in administrative and legal matters in connection with accident insurance and social insurance.

Collective contracts of employment shall whenever technically possible provide for the setting up of mutual sick benefit funds by means of contributions from employers and workers, to be managed by representatives of both parties under the supervision of the corporative organs.

XXIX. It shall be the right and the duty of trade associations to grant relief to the persons whom they represent, whether members or not. They shall exercise their relief functions directly, and shall not delegate them to other bodies or institutions, except for purposes of a general character which extend beyond the interests of particular categories.

XXX. One of the chief duties of the trade associations shall be the education and training, in particular the vocational training, of the persons whom they represent, whether members or not. The associations shall support the activities of the national workers' spare time institutes and other educational schemes.

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## LATVIA

### Constitution of the Republic of Latvia<sup>1</sup>

*15 February 1922*

#### PART VI. COURTS OF JUSTICE

82. All citizens are equal before the law.

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## LIECHTENSTEIN

### Constitution of the Principality of Liechtenstein<sup>2</sup>

*5 October 1921*

#### CHAPTER III. THE FUNCTIONS OF THE STATE

14. The chief function of the State is to promote the general welfare of the population. For this purpose the State shall provide for the institution and maintenance of the law, and for the protection of the religious, moral and economic interests of the people.

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<sup>1</sup> English translation from French text in DARESTE: *Les constitutions modernes*, 4th edition, Vol. II, 1929, pp. 111-123.

The draft of this Constitution considered by the Constituent Assembly included provisions regarding civil liberties but these were omitted on the Third Reading. See DARESTE, p. 113.

<sup>2</sup> English translation from *British and Foreign State Papers*, Vol. 127, 1927, Part II, pp. 844-864.

15. The State shall devote special attention to education and teaching. These must be so ordered and administered that, as a result of the co-operation of the family, the school and the church, the younger generation may be imbued with religious and moral principles and love of country, and may be fitted to excel in their future vocation.

16. The whole field of education and instruction shall be under the supervision of the State, without prejudice to the immunity from interference enjoyed by ecclesiastical instruction.

Education shall be obligatory for all.

The State shall provide for adequate compulsory instruction in elementary subjects being given gratuitously in public schools.

Religious instruction shall be imparted by church authorities.

All persons having children under their care shall be responsible for seeing that they receive education of the standard prescribed for public elementary schools.

Attendance at continuation schools may be declared compulsory.

The supreme direction of education and teaching, which is vested in the State, shall be exercised by the latter through the National School Council, the organisation and duties of which are laid down by law.

Private education shall be allowed in so far as it is in conformity with the legal regulations governing school hours, educational aims and arrangements prevailing in the public schools.

17. The State shall assist and encourage continuation and secondary schools, as also domestic, agricultural and industrial training and education.

18. The State shall promote the maintenance of public health, assist institutions for the care of the sick, and seek by legislation to combat intemperance and to reform inebriates and persons unwilling to work.

19. The State shall safeguard the right to work and protect the workers, especially in the case of women and young persons employed in commerce and industry.

Sundays and holidays recognised by the State shall be observed as public days of rest, without prejudice to the legal regulations concerning rest on Sundays and holidays.

20. In order to increase earning capacity and to advance its economic interests, the State shall promote and assist agriculture, dairying, commerce and industry. In particular, it shall promote insurance against injuries to which workers and goods are exposed, and take measures to prevent such injuries.

It shall give special attention to the development of communications on lines corresponding to modern requirements.

It shall assist endiking, afforestation and drainage operations, and shall watch over and encourage every endeavour to open up new sources of wealth.

21. The State possesses sovereign rights over waters, in conformity with the laws existing or hereafter to be enacted on this matter. The utilisation, conveyance and holding back of waters shall be legally regulated and promoted, having due regard to the developments of technical science. Electrical rights shall be regulated by law.

22. The State shall exercise sovereign rights over hunting, fishing and mining, and when legislating on these matters shall protect the interests of agriculture and of communal revenues.

23. Questions concerning currency and public credit shall be regulated by the State.

24. The State shall provide, by enacting the necessary legislation, for an equitable system of taxation, which shall exempt incomes below a bare minimum from taxation, and impose heavier burdens on larger fortunes or incomes.

The financial situation of the State must be improved to the utmost possible

extent, and every effort must be made to open up new sources of revenue to meet the public requirements.

25. Poor relief shall be administered by the communes in conformity with the special laws; nevertheless the State shall supervise their action in this sphere. It may afford appropriate subventions to the communes, more especially for the proper care of orphans, lunatics, incurables and aged persons.

26. The State shall assist and promote insurance against sickness, old age, unfitness for work and fire.

#### CHAPTER IV. THE GENERAL RIGHTS AND OBLIGATIONS OF NATIONALS OF THE PRINCIPALITY

28. Every national of the Principality shall be freely entitled to establish himself in any locality in the national territory and to acquire property of any description therein, provided always that he observes the detailed legal regulations relating to such matters.

The rights of establishment of foreigners shall be determined by treaties or, in their absence, on a basis of reciprocity.

Persons staying within the frontiers of the Principality shall be bound to observe its laws, and shall become entitled to the protection afforded by the Constitution and the other laws.

31. All nationals shall be equal in the eyes of the law. The public offices shall be equally open to them, subject to observance of the legal regulations.

The rights of foreigners shall be determined, in the first instance, by treaties, or, in the absence of such, on the basis of reciprocity.

32. Personal liberty, domestic authority and the inviolability of letters and written matter are guaranteed by the Constitution.

34. The inviolability of private property is guaranteed: confiscation shall only take place in the cases laid down in the law.

Authors' rights shall be regulated by law.

35. Where requisite in the public interest, property of any kind may be compulsorily expropriated or subjected to a servitude, against suitable compensation, the amount of which, in cases of dispute, shall be determined by the courts.

36. Trade and industry shall be free, within the limits prescribed by the law; the extent to which exclusive commercial and industrial privileges may be admissible, for specified periods of time, shall be regulated by law.

37. Religious liberty and freedom of conscience are guaranteed to all persons.

38. The right of ownership, and all other proprietary rights of ecclesiastical communities and religious associations, in respect of their institutions, foundations and other possessions devoted to worship, education and benevolent objects, are guaranteed. The administration of Church property in the ecclesiastical parishes shall be regulated by a special law; the assent of the Church authorities shall be sought before the said law is promulgated.

39. The enjoyment of civil and political rights shall not be dependent on religious belief; nor may the latter constitute a ground for any dereliction of civil obligations.

40. Every person shall be entitled freely to express his opinions and to communicate his ideas verbally, in writing, in print or graphically, within the limits of the laws and of morality; no censorship may be exercised except in respect of public performances and exhibitions.

41. The right of free association and assembly is guaranteed within the limits prescribed by the law.

42. The right of petitioning the Diet and the Standing Committee is guar-

anteed, and not only individuals whose rights or interests are affected, but also communes and corporations, are entitled to have their wishes and requests brought before the Diet through a member of that body.

43. The right of complaint is guaranteed. Any national of the Principality shall be entitled to lodge a complaint with the superior authority under which he is directly placed, regarding any unconstitutional, illegal or unwarrantable action or procedure, detrimental to his rights or interests, on the part of one of the authorities, and if need be to pursue his complaint to the highest authority, except in so far as the right of recourse may be barred by a legal restriction. If a complaint thus submitted is rejected by the superior authority the latter shall be bound to declare the reasons for such decision.

## LITHUANIA

### Constitution of 11 February 1938<sup>1</sup>

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### Constitution of 15 May 1928<sup>2</sup>

11. All Lithuanian citizens, men and women, are equal before the law. Special privileges may not be accorded a citizen nor may his rights be reduced on account of his origin, religion or nationality.

12. The person of the citizen is inviolable. . .

14. The citizen enjoys freedom of conscience and religion.

Adherence to any faith or confession of belief cannot be the ground for justifying crime or abstaining from public obligations.

16. Freedom of speech and the press is guaranteed to citizens. This freedom can be restricted only in cases provided by law, when it is essential to protect morality or State order.

17. The liberty of citizens to hold meetings without arms and without disturbance of public tranquillity, in accordance with procedure provided by law, is recognised.

18. The freedom of association and union is guaranteed to citizens, if their aims and proceedings are not contrary to the penal laws.

19. Juridical persons may be instituted for confessional and cultural purposes in the legally prescribed form in accordance with public law.

20. A citizen injured by an official who is fulfilling his duties has the right, in accordance with the procedure provided by law, to summon him in court, without the permission or consent of his superiors, and seek compensation for damages.

<sup>1</sup> French text in *Annuaire de l'Institut international de droit public*, 1938, pp. 275-302.

<sup>2</sup> English translation by the Lithuanian Ministry of Foreign Affairs from *British and Foreign State Papers*, Vol. 128, 1928, Part II, pp. 852-863; for Lithuanian text, see *Vyriausybės žinios*, 1922, No. 100.

21. Every citizen has the right of petition to the Seimas.

23. The right of property is safeguarded. The property of citizens may be expropriated by process of law only on the ground of public necessity.

#### V. THE COURTS

70. The courts are equal to all citizens.

Special courts can be constituted only in times of war or in the event of the proclamation of a state of war.

#### VII. THE RIGHT OF NATIONAL MINORITIES<sup>1</sup>

74. National minorities of citizens forming a considerable part of the body of citizens have the right, within the limits of the laws, autonomously to administer their own national cultural affairs — popular education, charity, material aid — and to elect representative organs in accordance with procedure provided by the law, to administer those affairs.

75. The national minorities mentioned in article 74 have the right, by virtue of special laws, to levy taxes upon their members for cultural needs and avail themselves of an appropriate portion of the amounts which are assigned by the State and autonomous administrations for the needs of education and charity, if those needs are not satisfied by the general establishments maintained by the State and autonomous administrations.

#### VIII. NATIONAL DEFENCE

78. State protection and provision are guaranteed to the families of those soldiers and to the soldiers themselves who, while discharging military service, lose their health or life.

#### IX. PUBLIC EDUCATION

79. The education of children is the highest duty of parents.

80. The State, autonomous administrations, public organisations and private individuals establish schools. All schools are under the supervision of the State within the specified limits of the law.

81. Religious teaching in schools is compulsory, with the exception of schools established for children whose parents belong to no religious organisation. Religion must be taught in accordance with the demands of the religious organisation to which the pupil belongs.

82. Primary education is compulsory. The law indicates the time and procedure for the introduction of compulsory primary education.

Primary education in schools maintained by the State or by autonomous administrations is free.

83. Private religious schools, if they carry out the minimum programme laid down by the laws, receive from the State Treasury the portion of the budget

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<sup>1</sup> For the text of the Declaration on the Protection of Minorities Made by Lithuania, 12 May 1922, at the time of her admission to the League of Nations, see HUDSON: *International Legislation*, Vol. II, 1922-1924, pp. 868-872.

appropriated for the needs of education, which corresponds to the number of Lithuanian citizens and pupils officially belonging to that religious organisation, whose schools are conducted according to the teachings of that organisation.

#### X. RELIGION AND CULTS

84. The State equally recognises the right of all religious organisations existing in Lithuania . . . to establish and administer the houses and schools of their belief and institutions of education and charity. . .

87. The laws observe Sunday and other holidays recognised by the State.

88. Soldiers must be granted leisure to perform their religious duties.

Persons kept in hospitals, prisons and other public institutions must be given the opportunity to perform their religious duties.

#### XI. BASIS OF THE STATE'S ECONOMIC POLICY

89. In all spheres of economy every citizen is guaranteed freedom of labour and initiative.

Economic life is regulated so that every citizen should have work.

90. The laws guarantee to individual spheres of economy special administrative autonomy.

Chambers of agriculture, commerce, industry, labour, etc. are established by legislation, their co-operation with the State authorities in regulating economic life being determined by the law.

91. The principle of private ownership lies at the basis of land administration.

To the State pertains the right to regulate land administration so that suitable conditions should be created for proper agricultural production, especially to develop small and medium scale farming.

#### XII. STATE FINANCES

92. To impose taxation upon the inhabitants to allot outlays of the State Treasury, to contract internal loans or issue paper money is possible only by means of legislation.

#### XIII. SOCIAL SECURITY

98. The power of human labour is protected and safeguarded by special laws. The State, by separate laws, protects the workman in case of sickness, old age, accident, and when there is insufficient work.

99. The foundation of family life is marriage. Equality of rights of both sexes lies at its base.

Family health and social welfare are protected and maintained by special laws.

Maternity is under the special protection of the State.

100. Public morality and health are safeguarded by special laws.

101. Schools of all grades are equally accessible to all.

102. To promote temperance, the entirety of the citizens of a commune has the right to decide with regard to the maintenance of establishments for the sale of intoxicants in its residential region.



## Memel

### Convention concerning the Territory of Memel<sup>1</sup>

8 May 1924

12. The nationals of foreign Powers, both private and corporate, shall have the same rights and receive the same treatment in the Memel Territory as the citizens or corporations of Memel and Lithuania in all that concerns the use of the port and its facilities and the purchase, lease or use of real property for legitimate business purposes.

Lithuania retains, however, the right to reserve for her own flag the coasting trade and fisheries in her territorial waters.

### Statute of the Territory of Memel<sup>2</sup>

8 May 1924

4. The measures taken by the Lithuanian Legislature in execution of international treaties and conventions shall be applicable to the Memel Territory in so far as the said treaties and conventions are not contrary to the present Statute; nevertheless, in the event of their applying to affairs which, by virtue of article 5, come within the competence of the local authorities of the Memel Territory, it shall be for the latter to take the necessary measures for the application of the said international agreements.

5. Subject to the provisions of the preceding article, the following matters shall be within the competence of the local authorities of the Memel Territory:

- (1) Organisation and administration of communes and districts;
- (2) Public worship;
- (3) Public education;
- (4) Public relief and health, including veterinary regulations;
- (5) Social welfare and labour legislation;
- (6) Local railways, except those belonging to the Lithuanian State, roads, local public works;
- (7) Regulation of the sojourn of foreigners in conformity with the laws of Lithuania;
- .....
- (9) Civil legislation (including proprietary rights) and criminal, agrarian, forestry and commercial legislation (including weights and measures), it being understood that all operations effected by the credit and the insurance institutions and the exchanges shall be subject to the general law of the Republic, regulations governing organisations officially representing the economic interests of the Territory;
- .....
- (12) Direct and indirect taxes levied in the Territory, with the exception of customs duties, excise duties, commodity taxes and monopolies on alcohol, tobacco and similar articles of luxury;

<sup>1</sup> Text from HUDSON: *International Legislation*, Vol. II, 1922-1924, pp. 1265-1271.

<sup>2</sup> *Ibid.*, pp. 1272-1283.

- (13) Administration of public property belonging to the Memel Territory;
- (14) Regulation on Memel Territory of timber-floating and navigation on the rivers, other than the Niemen, and the canals within the Memel Territory, subject to agreement with the Lithuanian authorities in case such water-courses are utilisable outside the Memel Territory for timber-floating.
- (15) Registration of trading vessels in accordance with the laws of Lithuania.

The laws of Lithuania may extend the competence of the authorities of the Memel Territory to other matters.

Nothing in this article shall prevent the legislative bodies of the Republic of Lithuania and the Memel Territory from taking legal dispositions to effect a unification of laws and regulations.

6. In the absence of provisions to the contrary in the present Statute, the local authorities of the Memel Territory, in exercising the powers conferred upon them by the present Statute, shall conform to the principles of the Lithuanian Constitution.

9. The citizens of the Memel Territory shall have throughout Lithuanian territory all the recognised civil rights enjoyed by the other nationals of Lithuania.

Lithuanian nationals who are not citizens of the Memel Territory shall have in the said Territory all the recognised civil rights enjoyed by the citizens of the Memel Territory.

14. The present Economic Council of the Memel Territory shall continue until the Chamber of Representatives shall otherwise decide. Subject to such decision of the Chamber, the Council shall be consulted by the Chamber upon all fiscal and economic legislation before it is finally voted.

25. The curriculum adopted in the public schools of the Memel Territory shall not be of a lower standard than the curriculum followed in schools of the same standing in other parts of the Lithuanian territory.

26. The authorities of the Memel Territory shall carry out and cause to be carried out in the Territory the provisions contained in the Declaration concerning the protection of minorities, made by the Lithuanian Government before the Council of the League of Nations, at its meeting of 12 May 1922, with the exception of paragraph 4 of article 4 of the said Declaration.

31. Until 1 January 1930, the educational authorities of the Memel Territory shall be free to employ teachers of alien nationality to the extent deemed by them to be necessary for the proper maintenance of education in the Territory.

The Directorate shall not, however, be entitled to retain in the Territory under the above provision any person against whom the Governor adduces proof that he is engaged in political agitation contrary to the interests of Lithuania.

On the expiration of the above-mentioned period, foreign teachers may be engaged by the authorities of the Territory with the consent of the Lithuanian Government.

32. Private property shall be respected. Expropriation shall only take place for reasons of public utility and in return for the payment of equitable compensation in advance, in conformity with the laws, and provided that the provisions of the present Statute are not infringed.

The right of companies and associations, including religious and charitable organisations, to own property shall be recognised in principle.

33. The freedom of meeting and association, the freedom of conscience and the freedom of the press shall be guaranteed to all the inhabitants of the Memel Territory without distinction of nationality, language, race or religion, subject to the observance of the laws and regulations necessary for the maintenance of public order and the security of the State.

The same shall apply to freedom of teaching and the right of opening schools.

35. Within a period of one month from the coming into force of the present Statute, negotiations shall be entered into between the Lithuanian Government

and the local authorities of the Memel Territory for the purpose of determining the percentage of the net yield of the customs duties, excise duties and commodity taxes, including revenues from monopolies dealt with in article 5, paragraph 12, which shall be assigned to the Memel Territory. In determining this percentage, account shall be taken: (1) of the average value of imports and exports per head of the population in the Memel Territory and in the other parts of Lithuania respectively during the years 1921 and 1922, special circumstances which may have influenced the returns for those years being allowed for; (2) of the additional revenue and expenditure which the transfer of sovereignty over the Memel Territory to Lithuania involves for the Lithuanian State.

The percentage thus determined may be revised from time to time by the Lithuanian Government in agreement with the local authorities of the Memel Territory.

36. The tariffs applied on railways and ships to passengers and goods, and the postal, telegraphic and telephonic charges, in the Memel Territory, shall not be higher than the tariffs applied and the charges made for the same purposes in the other parts of Lithuania.

The tariffs applied on the Lithuanian railways to passengers and goods coming from or destined for the Memel Territory shall, in no case, exceed those applied to passengers and goods in respect of any other journey of the same length in another part of the Lithuanian railway system.

## LUXEMBURG

### Constitution<sup>1</sup>

*17 October 1868*

#### CHAPTER II. LUXEMBURG CITIZENS AND THEIR RIGHTS

11. There shall be no distinction of classes in the State. All Luxemburg nationals are equal before the law. . .

12. Individual liberty is guaranteed.

. . . . .

16. No-one may be deprived of his property, except for reasons of public utility, in the cases and in the manner prescribed by law and in consideration of fair compensation previously determined.

17. Punishment by confiscation of property shall not be established.

18. The death penalty for political offences, civil death, and branding are abolished.

19. Religious liberty, freedom of public worship and the right of every man to express his religious opinions are guaranteed, subject to the power to punish offences committed in the exercise of these liberties.

23. The State shall ensure that every Luxemburg national receives elementary education.

It shall establish institutions for intermediate instruction and courses for higher education as may be necessary.

<sup>1</sup> English translation by the International Labour Office from French text in DARESTE: *Les constitutions modernes*, 4th edition, Vol. II, 1929, pp. 161-177.

The law shall prescribe the manner in which the cost of public instruction shall be met and the conditions for the supervision of education by the Government and the communes; it shall lay down rules respecting all other matters relating to education.

Every Luxemburg national is free to study in the Grand Duchy or abroad and to attend any university which he may choose, subject to the provisions of the law relating to the conditions for admission to employment or to the exercise of certain professions.

24. Freedom of speech on all subjects and the freedom of the press are guaranteed, subject to the power to punish offences committed in the exercise of these liberties.

A censorship shall never be established.

No security shall be exacted from authors, publishers or printers.

The stamp duty on Luxemburg newspapers and periodicals is abolished.

The publisher, printer or distributing agent shall not be prosecuted if the author is known, is a Luxemburg national and is domiciled in the Grand Duchy.

25. Luxemburg nationals have the right to assemble peaceably and without arms without previous authorisation, provided that they comply with the laws regulating the exercise of this right.

This provision shall not apply to political, religious or other meetings in the open air, which shall continue to be subject in every respect to the police laws and regulations.

26. Luxemburg nationals have the right of association. This right shall not be made subject to any preliminary permit.

The founding of any religious corporation must be authorised by an Act.

27. Everyone has the right to address petitions to the public authorities signed by one or more persons.

Legally constituted authorities alone have the right to address petitions under a collective name.

31. Public officials, irrespective of their rank, with the exception of the members of the Government, shall not be deprived of their posts, honours, and pensions otherwise than in the manner prescribed by law.

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## MALTA

### Letters Patent Constituting the Office of Governor and Commander-in-Chief and Providing for the Government<sup>1</sup>

*12 August 1936*

8. The Governor may, in Our Name and on Our behalf, make and execute under the Public Seal, grants and dispositions of any lands within Malta which may be lawfully granted or disposed of by Us.

21. (2) No person shall be subjected to any disability or excluded from holding any office by reason of his religious profession.

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<sup>1</sup>Text from *Constitutions of All Countries*, Vol. I, p. 513.

## MONACO

### The Constitutional Organisation of the Principality<sup>1</sup>

*5 January 1911*

#### PART II. PUBLIC RIGHTS

5. All Monegasque subjects are equal before the law. There are no privileges amongst them.

6. Individual liberty is guaranteed. . .

9. Property is inviolable. No one may be deprived of his property, except for reasons of public utility, in the cases and in the manner prescribed by law and in consideration of fair compensation previously determined.

10. Religious liberty, the freedom of public worship and the free expression of opinion in all matters are guaranteed, subject to the power to punish offences committed in the exercise of these liberties.

12. Monegasque subjects have the right to assemble peaceably and without arms without previous authorisation, provided that they comply with the laws regulating the exercise of this right. This provision shall not apply to meetings in the open air, which shall continue to be subject to the police laws.

13. Every person has the right to address petitions to the public authorities signed by one or more persons.

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## NETHERLANDS

### Constitution of the Netherlands<sup>2</sup>

*30 November 1887, as Amended to 1938*

#### CHAPTER I. THE KINGDOM AND ITS INHABITANTS

4. All persons within the territory of the Kingdom shall have an equal right to protection of person and property.

The law shall regulate the admission and expulsion of foreigners and the general conditions under which treaties may be concluded with foreign powers regarding their extradition.

5. Every citizen of the Netherlands shall be admissible to any public employment.

. . . . .

7. No previous authorisation shall be required in order that one may publish

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<sup>1</sup>English translation by the International Labour Office from French text in DARESTE: *Les constitutions modernes*, 4th edition, Vol. II, 1929, pp. 189-200.

<sup>2</sup>English translation partly from W. F. DODD: *Modern Constitutions*, Vol. II, 1909, pp. 79-119 and partly by the International Labour Office from DARESTE: *Les constitutions modernes*, 4th edition, Vol. II, 1929, p. 263.

his thoughts or opinions through the press, except that every person shall be responsible according to law.

8. Every person shall have the right to present petitions, in writing, to the authorities.

Every petition must be signed by the petitioner. Signing in the name of others can only be done by virtue of a written power of attorney to accompany the petition.

Legally organised bodies may petition the authorities, but only upon matters pertaining to their particular sphere of activity.

9. The inhabitants have the rights of assembly and of association.

The law regulates and restricts the exercise of these rights in the interests of public order.

## CHAPTER V. JUSTICE

### *Section I. General Provisions*

158. No-one shall be deprived of his property without a previous declaration by law that the public utility requires that it be taken, and without receiving a compensation previously paid or determined, both in accordance with the provisions of a law.

The law shall determine the cases in which a previous declaration by law is not necessary.

The requirement that the compensation be paid or determined in advance shall not apply when war, danger of war, revolt, fire, or inundation renders necessary the immediate taking of possession.

159. When the public interest requires that property be destroyed by the public authorities or rendered temporarily or permanently useless, this shall be done upon payment of a compensation, unless the law otherwise provides.

The use of property for the preparation and execution of military inundations, when rendered necessary by war or by danger of war, shall be regulated by law.

160. All controversies regarding property or the rights arising therefrom, regarding debts, and regarding other civil rights shall belong exclusively to the jurisdiction of the courts.

161. The law may entrust either to the regular courts or to a body invested with administrative jurisdiction the settlement of controversies not included among those mentioned in article 154; the law shall regulate the procedure and the effects of the decision.

162. The judicial power shall be exercised only by the courts established by law.

(*Ibid.*, second paragraph) The law may provide that persons who are not members of the judicial order may participate in decisions upon cases specified in the law as provided in article 153.

167. General confiscation of the property of the guilty person shall not be imposed as a penalty for any offence.

## CHAPTER VI. RELIGIOUS WORSHIP

176. The adherents of the various religious denominations shall all enjoy the same civil and political rights and shall have an equal right to hold dignities, offices, and employments.

## CHAPTER IX. WATERSTAAT

196. The law shall prescribe rules regarding the administration of the *waterstaat*, including the supreme and immediate control thereof, regard being had for the provisions contained in the following articles of this chapter.

197. The King shall exercise supreme control over everything relating to the *waterstaat*, regardless of whether the costs thereof are defrayed from the national treasury or in some other manner.

198. The Provincial Estates shall have the immediate control over all works pertaining to the *waterstaat*, *waterschappen*, *veenschappen*, and *veenpolders*. Nevertheless the law may assign the control over these works to others.

The Estates are authorised, with the consent of the King, to make changes in the existing arrangements and regulations of *waterschappen*, *veenschappen*, and *veenpolders*, to abolish *waterschappen*, *veenschappen*, and *veenpolders*, to establish new ones, and to adopt new regulations for such institutions. The administrations of such institutions may propose to the Provincial Estates modifications of their organisation or rules.

199. The governments of *waterschappen*, *veenschappen*, and *veenpolders* may, according to rules established by law, make ordinances in the local interests of these institutions.

## CHAPTER X. EDUCATION AND POOR RELIEF

200. (Act of 29 November 1917, No. 661.) Education shall be an object of constant care on the part of the Government.

The right to teach is free, subject to supervision by the authorities and in addition, as regards general education, whether primary or intermediate, to examination of the qualifications and moral character of the teaching staff; all these matters shall be regulated by law.

Public education shall be governed by law, provided that the religious beliefs of all shall be respected.

In every commune public elementary education comprising adequate general instruction shall be provided by the authorities in a sufficient number of schools. Exceptions to this provision may be granted, provided that the law shall ensure that parents who wish to send their children to public schools shall be enabled to do so.

The standards of educational establishments all or part of whose costs are defrayed by the public treasury shall be prescribed by law, with due regard in the case of private education to freedom of direction.

In the case of general instruction the said standards shall be such that the standards of private education all or part of whose cost is defrayed by the public treasury and the standards of public education are equally guaranteed. The regulations shall in particular respect, in the case of private education, the right to select the means of instruction and to appoint teachers freely.

The cost of private institutions for general education which satisfy the statutory conditions shall be defrayed by the public treasury to the same extent as in the case of public education. The law shall lay down the conditions for the making of grants from the public treasury to private institutions for general education and to institutions for preparatory higher education.

The Crown shall cause a report on the state of education to be submitted to the States General every year.

201. The relief of the poor shall be an object of constant care on the part of the Government, and shall be regulated by law.

The King shall cause a detailed report to be made annually to the States General concerning the measures taken in this matter.

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## NORWAY

### Constitution of the Kingdom of Norway<sup>1</sup>

*17 May 1814, as Amended to 1921*

#### B. THE EXECUTIVE POWER, THE KING, AND THE ROYAL FAMILY

17. The King can issue and repeal regulations concerning commerce, customs, trade and industry, and police; but they must not be at variance with the Constitution or with the laws passed by the Storting (as hereinafter provided in articles 77, 78 and 79). Such regulations shall operate provisionally until the next Storting.

19. The King shall take care that the Crown estates and regalia are utilised and managed in the manner appointed by the Storting and most advantageous to the public.

#### E. GENERAL PROVISIONS

100. There shall be liberty of the press. No person can be punished for any writing, whatever its contents may be, which he has caused to be printed or published, unless he has wilfully and clearly, either himself shown or incited others to disobedience to the laws, contempt of religion or morality or the constitutional authorities, or resistance to their orders, or has advanced false and defamatory accusations against any person. Everyone shall be at liberty to speak his mind frankly on the administration of the State and on any other subject whatsoever.

101. New and permanent restrictions on the freedom of industry shall not be granted to anyone in future.

103. Refuges shall not be granted to such persons as hereafter become bankrupt.

104. Neither landed nor movable property may in any case be confiscated.

105. If the welfare of the State shall demand that any person shall surrender his movable or immovable property for the public use, he shall receive full compensation from the Treasury.

106. Both the proceeds of the sale of, and the income derived from, the landed property constituting the benefices of the clergy shall be applied solely to the benefit of the clergy and to the promotion of education. The property of charitable institutions shall be applied solely to their use.

107. The Odel and Aasaede<sup>2</sup> rights may not be abolished. The precise conditions under which they shall continue, to the greatest benefit of the State and advantage of the country population, shall be determined by the first or next following Storting.

110. The Reserve Fund of the State, amounting to forty million kroner, shall be used exclusively for warding off dangers to the Kingdom or when the Kingdom has been afflicted by a national calamity. The Reserve Fund shall be administered in accordance with the regulations prescribed therefor by the Storting.

<sup>1</sup> English translation from *Select Constitutions of the World*, published by the Stationery Office, Dublin, 1922, pp. 521-545.

<sup>2</sup> The *Odelsret* (right of allodial possession and primogeniture), is the ancient right to complete ownership of land in country districts, including the right of redemption of the property by the family, within three years, if it has been sold. The *Aasaedesret* (right of succession to landed property) is the right of the eldest son to retain possession of the property at a moderate price (Note by H. L. BRAEKSTAD: *The Constitution of Norway*).



## Jan Mayen Island

Norwegian Law Applying Norwegian Legislation to the Island  
of Jan Mayen, 27 February 1930<sup>1</sup>

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## POLAND

Charter of Poland of 24 February 1942<sup>2</sup>

.....

Constitution of the Republic of Poland, 17 March 1921<sup>3</sup>

In the name of Almighty God!

We, the Polish Nation, thankful to Providence for freeing us from a servitude of a century and a half; remembering gratefully the courage and steadfastness of the self-sacrificing struggle of generations which have unceasingly devoted their best efforts to the cause of independence; taking up the glorious tradition of the memorable Constitution of the Third of May; having in mind the weal of our whole, united, and independent mother country, and desiring to establish her independent existence, power, safety, and social order on the eternal principles of right and liberty; desirous also of ensuring the development of all her moral and material forces for the good of the whole of nascent humanity, and of securing equality to all citizens of the Republic, and respect, due rights, and the special protection of the State to labour; — do enact and establish in the Legislative Sejm of the Republic of Poland this constitutional law.

### SECTION II. LEGISLATIVE POWER

3. The domain of State legislation comprises the establishment of all public and private laws, and the manner of their execution.

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The Republic of Poland, basing its organisation on the principle of broad territorial self government, will delegate to the bodies representing this self government the proper domain of legislation, especially in administrative, cultural, and economic fields, to be defined more fully by statutes of the State.

<sup>1</sup> For an English translation, see *British and Foreign State Papers*, Vol. 132, 1930, Part I, p. 864; for the Norwegian text, see *Norsk Lovtidende*, No. 9, 1 Mar. 1930.

<sup>2</sup> English translation in *War and Peace Aims*, United Nations Information Office, p. 77.

<sup>3</sup> English translation from MCBAIN and ROGERS: *The New Constitutions of Europe*, pp. 401-425; for Polish text, see *Dziennik Ustaw* 1921, No. 44, p. 633.

## SECTION III. EXECUTIVE POWER

68. A special statute will create, in addition to territorial self government, economic self government for the individual fields of economic life; namely, chambers of agriculture, commerce, industry, arts and crafts, hired labour and others, united into a Supreme Economic Council of the Republic, the collaboration of which with State authorities, in directing economic life and in the field of legislative proposals, will be determined by statutes.

## SECTION V. GENERAL DUTIES AND RIGHTS OF CITIZENS

94. It is the duty of citizens to bring up their children as righteous citizens of the mother country, and to secure to them at least elementary education.

This duty will be defined more in detail by a special statute.

95. The Republic of Poland guarantees on its territory, to all, without distinction of extraction, nationality, language, race, or religion, full protection of life, liberty, and property.

Foreigners enjoy, on condition of reciprocity, rights equal to those of citizens of the Polish State, and have duties equal to those of such citizens, unless statutes expressly require Polish citizenship.

96. All citizens are equal before the law. Public offices are accessible in equal measure to all, on conditions prescribed by the law. . .

98. . . Punishments involving physical suffering are not permitted, and no one may be subjected to such punishment.

No Statute may deprive a citizen of access to the courts for the purpose of demanding reparation for injury or damage.

99. The Republic of Poland recognises all property, whether belonging personally to individual citizens or collectively to associations of citizens, institutions, self-government organisations, or the State itself, as one of the most important bases of social organisation and legal order, and guarantees to all citizens, institutions, and associations, protection of their property, permitting only in cases provided by a statute the abolition or limitation of property, whether personal or collective, for reasons of higher utility, against compensation. Only a statute may determine to what extent property, for reasons of public utility, shall form the exclusive property of the State, and in how far rights of citizens and of their legally recognised associations to use freely land, waters, minerals, and other treasures of nature, may be subject to limitations for public reasons.

The land, as one of the most important factors of the existence of the nation and the State, may not be the subject of unrestricted transfer (commerce). Statutes will define the right of the State to buy up land against the will of the owners, and to regulate the transfer of land, applying the principle that the agrarian organisation of the Republic of Poland should be based on agricultural units capable of regular production and forming private property.

101. Every citizen has the liberty of selecting on the territory of the State his place of residence and abode, to move about and to emigrate, as well as to choose his occupation and profession, and to transport his property.

These rights may be restricted only by statute.

102. Labour is the main basis of the wealth of the Republic, and should remain under the special protection of the State.

Every citizen has the right to State protection for his labour, and in case of lack of work, illness, accident, or debility, to the benefits of social insurance which will be determined by a special statute.

The State has the duty of making accessible also moral guidance and religious consolation to citizens under its immediate care in public institutions, such as educational institutions, barracks, hospitals, prisons, and charitable homes.

103. Children without sufficient parental care, neglected with respect to education, have the right to State care and aid within the limits to be determined by statute.

Parents may not be deprived of authority over their children except by judicial decision.

Special statutes determine the protection of motherhood.

Children under fifteen years of age may not be wage earners; neither may women be employed at night, or young labourers be employed in industries detrimental to their health.

Permanent employment of children and young people of school age for wage-earning purposes is forbidden.

104. Every citizen has the right to express freely his ideas and convictions in so far as he does not thereby violate legal provisions.

105. Freedom of the press is guaranteed. Censorship, or the system of licensing printed matter, may not be introduced. Daily papers and other matter printed in the country may not be debarred from the mails, nor may their dissemination on the territory of the Republic be restricted.

A special statute will define the responsibility for the abuse of this freedom.

107. Citizens have the right of presenting individual or collective petitions to all State and self-government representative bodies and public authorities.

108. Citizens have the right of combining, meeting, and forming associations and unions.

The exercise of these rights is defined by statutes.

109. Every citizen has the right of preserving his nationality and developing his mother tongue and national characteristics.

Special statutes of the State will guarantee to minorities in the Polish State the full and free development of their national characteristics, with the assistance of autonomous minority unions, endowed with the character of public law organisations, within the limits of unions of general self government.<sup>1</sup>

The State will have, in regard to their activity, the right of control and of supplementing their financial means in case of need.

110. Polish citizens belonging to national, religious, or linguistic minorities have the same right as other citizens of founding, supervising and administering at their own expense, charitable, religious, and social institutions, schools and other educational institutions, and of using freely therein their language, and observing the rules of their religion.

111. Freedom of conscience and of religion is guaranteed to all citizens. No citizen may suffer a limitation of the rights enjoyed by other citizens, by reason of his religion and religious convictions.

All inhabitants of the Polish State have the right of freely professing their religion in public as well as in private, and of performing the commands of their religion or rite, in so far as this is not contrary to public order or public morality.

112. Religious freedom may not be used in a way contrary to statutes. No one may evade the performance of public duties by reason of his religious beliefs. No one may be compelled to take part in religious activities or rites unless he is subject to parental or guardians' authority.

113. Every religious community recognised by the state has the right of organising collective and public services; it may conduct independently its internal affairs; it may possess and acquire movable and immovable property, administer and dispose of it; it remains in possession and enjoyment of its endowments and funds, and of religious, educational, and charitable institutions. No religious community may, however, be in opposition to the statutes of the State.

117. Learned investigations and the publication of their results are free.

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<sup>1</sup> For the text of the Polish Minorities Treaty, see HUDSON: *International Legislation*, Vol. I, 1919-1921, pp. 285-298.

Every citizen has the right to teach, to found a school or educational institution, and to direct it if he complies with the requirements laid down by statutes concerning the qualifications of teachers, the safety of the child entrusted to him, and a loyal attitude towards the State. All schools and educational institutions, public as well as private, are subject to supervision by State authorities within the limits prescribed by statutes.

118. Within the limits of the elementary school, instruction is compulsory for all citizens of the State. A statute will define the period, limits, and manner of acquiring such education.

119. Teaching in State and self-government schools, is gratuitous.

The State will ensure to pupils who are exceptionally able, but not well-to-do, scholarships for their maintenance in secondary and academic schools.

120. Instruction in religion is compulsory for all pupils in every educational institution, the curriculum of which includes instruction of youth under eighteen years of age, if the institution is maintained wholly or in part by the State, or by self-government bodies. The direction and supervision of religious instruction in schools belongs to the respective religious communities, reserving to the State educational authorities the right of supreme supervision.

## Constitution of the Republic of Poland<sup>1</sup>

*23 April 1935*

1. (1) The Polish State is the common good of all its citizens.

4. (1) The life of the collectivity develops in the cadre of the State and is based upon it.

(2) The State assures the free development of the collectivity and, if the public interest so requires, gives a direction to such development and regulates the conditions thereof.

(3) The State shall have recourse to the collaboration of regional and economic autonomy with a view to the accomplishment of the tasks involved in life in common.

5. (1) The creative action of the individual is the mainspring of collective life.

(2) The State assures to its citizens the possibility of developing their personal virtues as well as freedom of conscience, speech and association.

(3) The limits of these liberties shall be determined by the public interest.

6. The citizens owe fidelity to the State and are required to fulfil conscientiously the duties which it places upon them.

7. (1) The rights of citizens to exercise an influence on public affairs shall be measured by the value of the efforts and merits of which they have given proof in the common interest.

(2) Origin, religion, sex and nationality shall not be reasons for the limitation of these rights.

8. (1) Work is the basis of the development and the power of the Republic.

(2) The State protects work and regulates the conditions thereof.

9. The State endeavours to unite its citizens in harmonious co-operation for the benefit of the common interest.

10. (1) No activity shall be contrary to the ends of the State as expressed in the laws.

(2) In the event of opposition the State shall have recourse to measures of constraint.

76. (1) For the different branches of economic life there are constituted

<sup>1</sup> English translation from French text in *Annuaire de l'Institut de droit public*, 1936, pp. 404-435.

autonomous economic bodies consisting of chambers for agriculture, industry and commerce, artisans, labour and the liberal professions as well as other associations of public law.

(2) The laws may group these chambers in unions and grant them personality of public law.

(3) The law may create a Supreme Economic Chamber called upon to deliberate on problems concerning economic life as a whole, to consider proposed legislation concerning the national economy and to co-ordinate initiative in the different branches of the national economy.

(4) The control of the activity of autonomous economic institutions is exercised by the Government with the assistance of organs designated for the purpose.

## Law Embodying the Principles of Autonomy in Voivodeships<sup>1</sup>

*26 September 1922*

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### Polish Silesia

#### Organic Statute<sup>2</sup>

*15 July 1920, as Amended 23 April 1935*

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## PORTUGAL

### Political Constitution of the Portuguese Republic<sup>3</sup>

*19 March 1933*

#### PART I. FUNDAMENTAL GUARANTEES

##### *Section I. The Portuguese Nation*

2. No part of the national territory may be acquired by any Government or juridical entity of a foreign country, except for the purpose of establishing

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<sup>1</sup> French translation in *British and Foreign State Papers*, Vol. 135, 1932, pp. 693-698.

<sup>2</sup> French translation, in *ibid.*, pp. 683-693.

<sup>3</sup> English translation from *Political Constitution of the Portuguese Republic* (Colonial Act, with alterations contained in Law No. 1900 of 21 May 1935), Editions of Secretariado da Propaganda Nacional, Lisbon, 1937; for Portuguese text, see *Diário do Governo*, 22 Feb. 1933, No. 43, Part I, supplement, p. 227; errata: *Diário do Governo*, 4 Mar. 1933, No. 51, Part I, p. 278; *idem*, 23 Sept. 1933, No. 217, Part I, p. 1655.

diplomatic or consular representation if there is reciprocity in favour of the Portuguese State.

3. The nation shall comprise all Portuguese citizens resident in or outside its territory, who shall be held to be subject to the State and Portuguese laws, without prejudice to the rules of international law applicable.

*Sole paragraph.* Without prejudice to the provisions of international law, foreigners sojourning or resident in Portugal shall also be subject to the State and to Portuguese laws.

4. The Portuguese nation shall constitute an independent State. In the domestic sphere its sovereignty shall only admit the limitations of morality and law, and internationally, those restrictions imposed by conventions or treaties freely concluded, or by customary law freely accepted. Its duty shall be to co-operate with other States in the preparation and adoption of measures in the interests of peace among peoples and the progress of humanity.

5. The Portuguese State is a unitary and corporative Republic founded on the equality of its citizens before the law, the free access of all classes to the benefits of civilisation, and the participation of all the structural elements of the nation in its administrative life and the enactment of its laws.

*Sole paragraph.* Equality before the law includes the right of provision with public employment in conformity with capability or services rendered, and does not admit any privilege of birth, titular or other nobility, sex or position, subject however, where women are concerned, to differences due to their nature and the welfare of the family and, in regard to the obligations and privileges of citizens, to differences imposed by varying circumstances or natural conditions.

6. It is the duty of the State:

(1) To promote unity of the nation and establish order according to law by determining and compelling respect for the rights and guarantees derived from morals, equity or law, for the benefit of individuals, families, local autonomous bodies and other corporate, public or private entities;

(2) To co-ordinate, instigate and direct all social activities and to promote due harmony of interests, subject to those of a private nature being lawfully subordinated to the general interest;

(3) To strive for improvement in the condition of the least favoured classes of society and to prevent their standard of life from falling below an adequate human minimum.

## *Section II. The Citizens*

7. . . . .

*Sole paragraph.* Foreigners resident in Portugal shall enjoy the same rights and guarantees, unless the law determines otherwise. This shall not apply to political and public rights which correspond to a duty towards the State, although, as regards public rights, reciprocity of advantages granted to Portuguese nationals by other States shall be observed.

8. The following constitute the rights and individual guarantees of Portuguese citizens:

(1) The right to life and personal inviolability;

(2) The right to good name and reputation;

(3) Liberty and inviolability of religious beliefs and practice, on the ground of which no one may be persecuted, deprived of a right or exempted from any obligation or civic duty. No one shall be compelled to answer questions concerning the religion which he professes, unless for statistical enquiry prescribed by law;

(4) The free expression of thought in any form;

(5) Freedom of education;

(7) Freedom of choice of profession, or nature of work, industry or commerce, subject to the legal restrictions required for the public welfare and the exceptions which only the State and administrative bodies can grant according to the provisions of the law, for reasons of recognised public utility;

(12) There shall be no confiscation of goods or transfer of any punishment from the person of the delinquent;

(14) Freedom of meeting and association;

(15) The right of property and the right to transfer it during life or owing to death, according to the conditions laid down by the civil law;

(17) The right to reparation for all actual damage in conformity with the provisions of the law, which may also prescribe pecuniary reparation for wrongs of a moral character;

(18) The right of making representation or petition, claim or complaint, to Government departments or any authorities, in defence of personal rights or general interests.

(20) . . . . .

§ 1. The enumerations of the above rights and guarantees shall not exclude any others derived from the Constitution or the laws, it being understood that citizens should always exercise them without injuring the rights of third parties or damaging the interests of society or the principles of morality.

§ 2. Special laws shall control the exercise of the liberty of the expression of opinion, education, and meeting and association. As regards the first item, they shall prevent, by precautionary or restrictive measures, the perversion of public opinion in its function as a social force, and shall protect the moral integrity of citizens who, when libelled or abused in a periodical publication, shall have the right to have inserted in the same, free of charge, a correction or explanation, without prejudice to any other liability or proceedings prescribed by law.

. . . . .

9. All persons employed by the State, administrative bodies and corporations, or by companies which have a contract with any of these, are guaranteed the right to their posts during the period of compulsory military service.

### *Section III. The Family*

12. The State shall ensure the constitution and protection of the family as the source of the maintenance and development of the race, the primary basis of education, discipline and social harmony, and, by its association and representation in the parish and the town, the foundation of all political and administrative order.

13. The constitution of the family is based upon:

(1) Marriage and legitimate offspring.

(2) Equality of the rights and duties of husband and wife in regard to the maintenance and education of their legitimate children.

(3) The obligation to register the marriage and the birth of children.

. . . . .

§ 2. Legitimate children shall be guaranteed the full rights necessary for the strength and unity of the family, and rights corresponding to their position shall also be recognised in the case of illegitimate children who can be adopted as offspring, and likewise children about to be born, particularly the right to maintenance, which shall be provided by those upon whom, after investigation, the duty is found to fall.

14. With the object of protecting the family it appertains to the State and local bodies:

(1) To encourage the establishment of separate homes under healthy con-

ditions, and the institution of the family household;

(2) To protect maternity;

(3) To adjust taxation in accordance with legitimate family obligations and to promote the adoption of the family wage;

(4) To assist parents in the discharge of their duty of instructing and educating their children, and to co-operate with them by means of public institutions for education and correction, or by encouraging private establishments destined for the same purpose;

(5) To take all precautions likely to avert the corruption of morals.

#### *Section IV. Corporative Organisations*

16. It shall be the duty of the State to authorise, unless prevented by existing legislation, all corporative organisations, for intellectual, social and economic purposes and to promote and assist their formation.

17. The principal aims of the corporations, associations or organisations, referred to in the preceding article, shall be scientific, literary, or artistic, or physical training; relief, benevolence, or charity; and technical improvement or unification of interests.

*Sole paragraph.* The constitution of these bodies and the exercise of their functions shall be controlled by special regulations.

18. Foreigners domiciled in Portugal may participate in the corporative organisations referred to, on conditions to be determined by law; they shall not be allowed, however, to share in the exercise of the political rights granted to these bodies.

#### *Section V. The Family, Corporative Organisations and Autonomous Bodies as Political Units*

19. Families shall have the exclusive right to elect the parish boards.

*Sole paragraph.* This right shall be exercised by the head of the family.

20. All the component parts of the nation shall be represented in the corporative organisations, through their appropriate organs, and it shall be their business to participate in the election of the municipal chambers and Provincial boards and in the constitution of the Corporative Chamber.

21. Under the political organisation of the State the parish boards shall participate in the election of the municipal chambers, who will in turn help to elect the Provincial boards. Local autonomous bodies shall be represented in the Corporative Chamber.

#### *Section VI. Public Opinion*

22. Public opinion is a fundamental element of the politics and administration of the country; it shall be the duty of the State to protect it against all those agencies which distort it contrary to truth, justice, good administration, and the common welfare.

23. The press exercises a function of a public nature and may not therefore refuse to insert any official notices of normal dimensions, on matters of national importance, sent to it by the Government.

#### *Section VII. Administrative Order*

24. Public officials shall be at the service of the community and not at the service of any party or organisation of private interests; it is their duty to respect the authority of the State and cause others to do so.



25. Employees of local autonomous bodies and administrative corporations, and likewise persons who work for public utility undertakings, shall be subject to the rule prescribed in the preceding article.

26. Planned interruption of public services or those of collective concern shall involve the dismissal of the delinquents, apart from other liabilities which the law may prescribe.

28. All citizens shall be compelled to lend their services and co-operation to the State and local bodies in accordance with the laws, and to contribute towards public burdens according to their means.

### *Section VIII. The Economic and Social Order*

29. The economic organisation of the nation must provide the maximum production and wealth for the welfare of society, and create a collective existence from which the State shall derive power and the citizens justice.

30. The State shall regulate its economic relations with other countries according to the principle of appropriate co-operation, without prejudice to the commercial advantages to be obtained from particular countries, or the necessity for protection against external threats or attacks.

31. It shall be the right and duty of the State to supervise the co-ordination and control of economic and social life with the following objects:

(1) To establish a proper balance of the population, the professions, occupations, capital and labour;

(2) To protect the national economic system from agricultural, industrial and commercial ventures of a parasitic nature, or of a character incompatible with the higher interests of life;

(3) To secure the lowest price and the highest wage consistent with the fair remuneration of the other factors of production, by means of the improvement of technical methods, services and credit;

(4) To develop the settlement of the national territories, protect emigrants and regulate emigration.

32. The State shall encourage those private economic activities which, when the costs are relatively equal, are the most profitable, but without detriment to the social benefit conferred by small home industries and the protection due to them.

33. The State may intervene directly in the management of private economic operations only when it is essential to finance them and in order to secure greater social benefits than would otherwise be obtained.

*Sole paragraph.* State undertakings carried on for the purpose of profit, even if they are working on the basis of free competition, shall likewise be subject to the stipulation laid down in the latter part of the present article.

34. The State shall promote the formation and development of the national corporative economic system. Care shall be taken to prevent any tendency among its constituent parts to indulge in unrestrained competition with each other, contrary to their own just aims and those of society; they shall be encouraged rather to collaborate as members of the same community.

35. Property, capital and labour shall fulfil a social duty in a system of economic co-operation and natural interest, and the law may determine the conditions of their use or exploitation in accordance with the common aim in view.

36. Labour, whether unskilled or specialised or technical, may be associated in an undertaking, in any form that circumstances may render advisable.

37. Only economic corporations which are recognised by the State may conclude collective labour contracts, in accordance with the law, and those made without their intervention shall be null and void.

38. Litigation relating to matters affecting collective labour shall be dealt with by special tribunals.

39. In their economic relation with one another, neither capital nor labour shall be allowed to suspend operations with the object of vindicating their respective interests.

40. It is the right and duty of the State to protect morality, the wholesomeness of food and drink, and public health.

*Sole paragraph.* The holding of a plurality of posts in private undertakings shall be discouraged as being contrary to public economy and morality.

41. The State shall promote and encourage community concerns, and provident, co-operative, and mutual benefit institutions.

#### *Section IX. Education, Instruction and National Culture*

42. Education and instruction shall be obligatory and the concern of the family in co-operation with public or private institutions.

43. The State shall officially maintain primary, complementary, secondary and high schools, and institutions for advanced education.

§ 1. Elementary, primary instruction is obligatory and may be given at home, or in private or State schools.

§ 2. The arts and sciences shall be encouraged and their development, teaching and propaganda favoured, so long as respect is maintained for the Constitution, the authorities and the co-ordinating activity of the State.

§ 3. The instruction furnished by the State besides instilling new physical vigour and improving the intellectual faculties, aims at the formation of character, of professional values as well as of every moral and civic virtue, the former in accordance with the traditional principles of Christian doctrine and morals, of the country.

§ 4. No authority shall be required for the teaching of religion in private schools.

44. The establishment of private schools on the lines of the State schools shall be free, but subject to State inspection; the schools may be subsidised by the State or authorised to grant diplomas if their *curricula* and the standard of their teaching staff are not inferior to those of the corresponding public institutions.

#### *Section X. The Relations of the State with the Catholic Church and the Régime of Cults*

48. Public cemeteries shall be secular in character, and ministers of any religion may freely practice their respective rites therein.

#### *Section XI. The Public and Private Domains of the State*

49. The public domain of the State shall comprise the following:

(1) Mineral deposits, medicinal mineral water springs, and other natural wealth below the surface;

(2) Maritime waters and their bed;

(3) Lakes, lagoons and navigable watercourses, and waters on which floating operations can be performed, with their respective beds or channels, as well as those which shall be recognised, by special decree, to be of public utility as suitable for the production of electric power, national or regional, or for irrigation;

- (4) Dykes opened up by the State;
- (5) The aerial strata above the land, beyond such limits as the law fixes in favour of the owner of the surface;
- (6) Railways of public importance of any kind, public highways and roads;
- (7) Territorial areas reserved for military defence;
- (8) Any other property placed by law under the régime of the public domain.

§ 1. The authority of the State over the property of the public domain and its use by the citizens shall be regulated by law and by the international conventions concluded by Portugal, the prior rights of the State and the acquired rights of private persons continuing to be reserved. The latter rights, however, shall be subject to expropriation to be determined by the public requirements upon payment of reasonable compensation.

§ 2. Rocks and common earths, and materials commonly employed in buildings, shall be expressly excepted from the natural wealth specified in (1).

§ 3. The State shall undertake the delimitation of those lands which are private and abut on the property of the public domain.

50. The administration of property on the mainland and in the Adjacent Islands and belonging to the private domain of the State appertains to the Ministry of Finance, except when it is expressly attributed to any other Ministry.

51. No State property or rights which affect its prestige or the more important national interests may be alienated.

52. Artistic, historical and natural monuments, and artistic objects officially recognised as such, shall be under the protection of the State, and their alienation in favour of foreigners is prohibited.

### *Section XII. National Defence*

56. The State shall promote, encourage and assist civil institutions whose aim is to teach and discipline young persons in preparation for the fulfilment of their military and patriotic duties.

58. The State shall guarantee protection and pensions to persons who are incapacitated in military service in defence of the country or of order, and also to the families of individuals who lose their lives in such service.

### *Section XIII. Administration of Concerns in which the Community may have an Interest*

59. All undertakings which contemplate the utilisation or exploitation of anything forming part of the State public domain, shall be regarded as of interest to the community, and shall be subject to special State régimes of administration, competition, supervision, or control, in accordance with the needs of public security, national defence, and economic and social relations.

60. Uniform rules, which shall not affect necessary particularities in points of minor importance, shall control the following:

(1) The establishment or alteration of land, river, maritime and air communications, whatever their nature or purpose may be;

(2) The construction of works for the utilisation of water supply or coal for the production of electric power, as well as the construction of grid systems for its transmission, supply or distribution, and also general plant for agricultural hydraulic purposes;

(3) The exploitation of public services in connection with the above-mentioned communications, works and grid systems.

61. The State shall promote the execution of the public improvements mentioned in the preceding article, and particularly the development of the national merchant marine, bearing in mind, especially, the ties with the overseas dominions and those countries where Portuguese are numerous.

62. The tables of charges relating to the exploitation of public services by concessions shall be subject to control and legal inspection by the State.

## PART II. POLITICAL ORGANISATION OF THE STATE

### *Section III. The National Assembly*

#### *Chapter V. The Corporative Chamber*

102. Associated with the National Assembly, there shall function a Corporative Chamber composed of representatives of local autonomous bodies and social interests. These shall be regarded according to their essential branches — administrative, moral, cultural and economic — and the law shall designate those bodies on which such representation is incumbent or the method of their selection and the duration of their mandate.

103. It shall be the business of the Corporative Chamber to report and give an opinion on all motions or bills and on all international conventions or treaties brought before the National Assembly, prior to the commencement of their discussion by the latter.

104. The Corporative Chamber shall function during the period of the National Assembly's sessions in separate specialist sections; two or more or all the specialist sections may, however, meet together, should the matter under examination so demand it.

§ 1. The President of the Council, the Minister or Under-Secretary of State for Corporations, if any, the appropriate Minister or Ministers, their representatives and the Deputy presenting the motion or bill, may take part in the discussions regarding same.

§ 2. The sessions of the Corporative Chamber shall not be public.

105. In the interval between Legislative Sessions, the Government may consult the sections of the Corporative Chamber on Decree-Laws to be published or bills to be presented to the National Assembly; in such cases the Corporative Chamber need not be consulted anew, before the matter is submitted to the National Assembly.

### *Section V. The Courts*

124. Penalties and precautionary measures which aim at the protection of society and, as far as possible, the social rehabilitation of the offender, shall be introduced as a means of preventing and checking crime.

National Labour Statute<sup>1</sup>*23 September 1933*PART I. INDIVIDUALS, THE NATION AND THE STATE IN THE  
ECONOMIC AND SOCIAL SYSTEM

1. The Portuguese nation constitutes a moral, political and economic whole, to the aims and interests of which the persons and groups composing it are subordinate.

2. The economic organisation of the nation shall be such as to attain the maximum of socially useful production and wealth and to establish a collective life ensuring the authority of the State and justice for all citizens.

3. The Portuguese State is a unitary corporative Republic based on the equality of its citizens before the law and the free access of all classes to the benefits of civilisation.

4. The State recognises private initiative as the most fruitful instrument of the progress and wealth of the nation.

Liberty to work and to choose an occupation in any branch of activity are hereby guaranteed, subject to legal restrictions imposed for the public good and the monopolies which in accordance with the law only the State and administrative authorities are entitled to operate or concede on grounds of recognised public utility.

5. Individuals and the corporative bodies constituted by them shall carry on their activities in a spirit of social peace and in obedience to the principle that the State is the sole fount of justice.

6. The State shall refrain from carrying on undertakings of a commercial or industrial character, even if they are intended wholly or in part for the use of the public services; whether such undertakings compete in the economic sphere with private activities or constitute monopolies, the State shall not be entitled to establish or manage them, save in exceptional cases with a view to obtaining social advantages superior to those which would be obtained without its intervention. Further, the State shall not intervene directly in the management of private undertakings, except when it must make grants to them and in pursuance of the above-mentioned aims.

7. The State shall be entitled and bound to act as the supreme authority in the co-ordination and regulation of economic and social life, to define the aims thereof and to pursue the following objects in particular:

- (1) To establish equilibrium in production, in occupations and employments and between capital and labour.
- (2) To defend national economic life against agricultural, industrial and commercial activities which are of a parasitic character or incompatible with the higher interests of humanity;
- (3) By the improvement of technique, services and credit, to attain the lowest prices and the highest wages compatible with fair remuneration for the other factors of production;
- (4) To promote the formation and development of a national corporative economic system in a spirit of co-operation which allows the elements of the system to attain the community's and their own rightful aims while obviating the setting up between the said elements of harmful opposition

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<sup>1</sup>English translation from INTERNATIONAL LABOUR OFFICE: *Legislative Series*, 1933, Port. 5; for Portuguese text, see *Diário do Governo*, 23 Sept. 1933, No. 217, Part I, p. 1655.

or unrestrained competition or the making of any attempt to leave to the State functions which fall within the scope of private enterprise;

- (5) To reduce to the indispensable minimum its acts of interference in restraint of national economic activity.

8. The hierarchy of social functions and interests is an essential condition of the organisation of national economic activity.

9. The suspension or disturbance of economic activities shall be a punishable action if committed:

- (1) By individual or collective employers in their establishments, offices or economic undertakings, without lawful reason and with the sole object of obtaining an advantage over their employees, their suppliers of raw materials, products and services, or the State or administrative authorities;
- (2) By technicians or wage-earning or salaried employees, with a view to obtaining new conditions of employment or any other benefits, or resisting measures of a higher authority taken in conformity with the law.

The penalties for such acts shall be laid down in the Corporations Code (Regimento das Corporações).

10. It shall be the right and the fundamental duty of the State to combat all social movements and doctrines which are contrary to the principles laid down in this Statute.

## PART II. PROPERTY, CAPITAL AND LABOUR

11. Property, capital and labour perform a social function within the system of economic co-operation and solidarity.

### *Chapter I. Property*

12. The State recognises the right to hold property and the right to enjoy it and the right to dispose of it during life or by succession, as being a rational necessity of human nature, a condition of greater individual and collective effort in the family and in the community, and one of the essential bases of social conservation and progress.

13. The exercise of the rights of an owner of property shall be safeguarded when it is in harmony with the nature of things, individual interests and social utility as set forth in the laws, which may subject it to such restrictions as may be necessary in the interests of the public and to ensure the equilibrium and conservation of the community. The bond between the owner and his property shall be of an absolute character, without prejudice nevertheless to the right of expropriation, the exercise of which shall be subject to previous payment of fair compensation.

### *Chapter II. Capital*

14. Capital invested in agriculture, industry or commerce shall be subject to the obligation to conciliate its legitimate interests with those of labour and those of the economic system.

15. The management of undertakings and all the responsibilities involved therein shall belong *de jure* to the owners of the capital or their representatives. Employees shall not participate in the management, supervision or profits of an undertaking without the free consent of the said owners or representatives.

16. The right to maintain or write off the capital of undertakings and the right to a fair return thereon shall be subject to the nature of things, provided that the interests and rights of labour shall not prevail against the aforementioned rights.

17. An undertaking shall not be bound to furnish work which its management deems unnecessary for the purposes of its operations. Nevertheless, in emergencies undertakings shall co-operate with the State and corporative bodies in the adoption of measures for the public good.

18. Capital, in virtue of the social function which it performs, shall be safeguarded by protective measures which shall be subject to the interests of the public. Undertakings shall be bound to constitute reserves to protect themselves against the contingencies inherent in their operations, to facilitate their adaptation to the development of the markets and to forestall emergencies.

19. The State shall encourage those private economic undertakings which (given relative equality of costs) are the most profitable, without prejudice to the social advantages of small home industries and the protection due to them. In like manner undertakings shall subordinate their operations to a constant improvement of their methods of work which, without sacrificing either the balance between production and the capacity of the markets or the vital requirements of their employees, shall allow them simultaneously to improve the quality of their products progressively and to prevent an undue fall of prices.

20. It shall be the duty of employers to co-operate with the State and the corporative bodies in the improvement of the economic situation of their employees within the due limits mentioned in section 16.

### *Chapter III. Labour*

#### *(a) The right to work and the conditions thereof.*

21. Work in any of its lawful forms is a social duty for all Portuguese citizens. The right to work and to a humanly adequate wage are hereby guaranteed, without prejudice to the economic, juridical and moral order of the community.

22. Every intellectual or manual worker is in virtue of his post a collaborator of the undertaking in which he is employed and is associated with the fortunes thereof by the corporative bond.

23. The right to work shall be enforced through individual or collective contracts. It shall not be enforced under coercion exercised by employees, corporative bodies or the State, without prejudice to the right which the State possesses in the event of a concerted suspension of work to use all lawful means to force the offenders to resume work.

24. The wage or salary shall be subject in principle to a minimum amount corresponding to the necessities of life.

Nevertheless, it shall not be subject to any absolute rule and shall be governed either by contracts of employment or by corporative regulations in conformity with the normal requirements of production, of the undertakings and employees and of the yield of the work itself. The hours of work shall be subject to the same principle, provided nevertheless that a maximum limit may be fixed by law or by a corporative decision in certain branches of economic activity, in accordance with a plan conforming to the interests of the nation, undertakings and employees.

The ratification of all international conventions respecting the matters covered by this section shall be subject in every case to the same principles.

(1) When night work is not performed in accordance with a system of regular periodical shifts, payment shall be made for it at a higher rate than for day work.

(2) When work is paid for by the piece and payment for it is delayed, weekly or fortnightly payments shall be made on account.

25. The conditions of employment shall be such as to make due provision for the requirements of physical health and morality and the safety of employees.

The responsibilities of employers in all matters relating to the putting of this principle into practice shall be governed by special laws.

26. Employees in agriculture, industry and commerce shall be entitled to one rest day a week, which shall be Sunday, save in exceptional cases and for sufficient reasons.

(1) Service requirements shall be brought into harmony whenever possible with the observance of the civil and religious holidays kept in the localities concerned.

(2) The rate of pay shall be doubled for work performed on Sunday or on the day specified by way of exception for the weekly rest, except in the case of persons employed in continuous operations.

27. Work done at home, when not of a purely domestic character, shall be subject to the corporative regulations. Special regulations shall be issued to ensure proper hygiene in work under these conditions and fair remuneration for it.

28. In every undertaking the permanent employees shall be granted annual leave with pay, even if only for a short period.

29. Salaried employees in private undertakings are hereby guaranteed the right to retain their employment during their whole period of compulsory military service. The same principle shall apply to all wage-earning and other employees on the permanent staff of undertakings.

30. The State shall grant a distinction to every person who renders notable service to the national economic system and the community whether as a result of his own efforts or by setting an example of honest work and diligence.

*(b) Employment of women and children.*

31. The employment of women and children outside their home shall be governed by special provisions in conformity with the requirements of morality, health, maternity, domestic life, education and social welfare.

*(c) Collective contracts.*

32. The national trade unions and employers' associations shall conclude among themselves collective contracts of employment to govern the relations between the various classes of employers and employees. The collective contract shall be the embodiment of the solidarity of the various factors in each branch of economic activity, subordinating the interests of the parties to the superior exigencies of the national economic system.

33. When a collective contract has been sanctioned by the superior corporative bodies and approved by the Government, it shall be binding on all employers and employees in the same industry, branch of commerce or occupation, whether they are members of the national trade unions or employers' associations concerned or not.

34. Collective contracts shall lay down standards for hours of work, rules of employment, salaries or wages, penalties for breaches of the rules, the weekly rest, holidays, the conditions of the suspension or loss of employment, the period during which employment is guaranteed in case of sickness, leave for the performance of military service, the period of apprenticeship or probationary period for new employees, and the contributions of employers and wage-earning or salaried employees to the provident funds of trade unions.



(d) *Employment by the State.*

35. Public officials shall be the servants of the community and not of any party or organisation of private interests, and it shall be their duty to respect the authority of the State and cause others to respect it.

36. The rule laid down in the preceding section shall likewise be binding on wage-earning employees on the permanent staff of the public services, salaried employees of local authorities and administrative bodies and persons who are employed by undertakings operating public utility services.

37. The concerted stoppage of any public service or public utility service shall entail the dismissal of the guilty persons in addition to any other penalties which the law may impose.

38. Wage-earning and salaried employees on the permanent staff of the State and administrative authorities and bodies are hereby guaranteed the right to retain their employment during their period of compulsory military service.

39. Officials of the State and of administrative authorities and bodies, and the wage-earning employees on the permanent staff thereof, shall not combine to form private trade unions or join any corporative organisation.

*Sole paragraph.* Nevertheless, officials of the State or of administrative authorities or bodies who exercise a liberal profession shall be entitled to join the corporative organisations of the profession to which they belong, but only in the capacity of members of the said profession, and the State shall not recognise the right of such organisations to negotiate with it with respect to the interests of such persons in their official capacity.

### PART III. THE CORPORATIVE SYSTEM

#### (a) *Fundamental Principles*

40. Occupational organisation shall cover not only the domain of economics, but also the exercise of the liberal professions and arts; in the latter case its action shall be directed exclusively towards such moral and intellectual improvement as will help to raise the spiritual level of the nation.

41. Occupational organisation shall not be compulsory, except where special provisions are applicable to individuals who are engaged in specified occupations. Nevertheless, it shall be the duty of the State to recognise the bodies which represent the said form of organisation and to encourage and facilitate their formation.

The national trade unions of wage-earning and salaried employees and the employers' associations shall constitute the basis of the corporative system, and shall combine to form federations and confederations which shall be the intermediate elements of the corporation, which in its turn shall constitute the ultimate expression of the said form of organisation.

The federation shall be regional or national and shall consist of trade unions and employers' associations of identical character. The confederation shall link related activities already organised in employers' associations or national trade unions, in such a manner as to represent jointly all persons concerned in the main branches of national activity.

The corporations shall constitute the unitary organisation of the forces of production and represent all their interests.

42. The national trade unions and the employers' associations shall be bodies corporate; they shall be the legal representatives of the whole body of employers or wage-earning or salaried employees engaged in the same branch of commerce, industry or occupation, whether these are their members or not; they shall protect their interests in relation to the State and to other corporative organisations, conclude collective contracts which shall be binding on all persons belonging to the

same category, collect the contributions from their members which are necessary for their operations as representative bodies and exercise functions of public interest in accordance with the law.

43. As representatives of the unitary interests of production, the corporations shall be entitled to lay down for themselves general and binding principles with respect to internal organisation and the co-ordination of operations whenever they receive for this purpose the necessary authority from the trade unions, employers' associations, confederations or federations composing them and the consent of the State.

44. Aliens resident in Portugal shall be entitled to be members of corporative organisations in accordance with the conditions laid down by law; nevertheless, they shall not be entitled to take part in the exercise of the political rights conferred upon the said organisations or to hold any office of management therein, except in the cases expressly laid down by law.

45. All the activities of the nation shall be represented in the corporations, which shall be entitled to take part through their various organs in the election of the municipal councils and Provincial councils and in the constitution of the Corporative Chamber.

46. Employment exchange services shall as a rule be established on the initiative of the corporative organisations and in particular of the trade unions.

Undertakings shall have the right to choose their wage-earning and salaried employees freely; nevertheless, they may be required in certain cases to confine their choice to the lists drawn up by the employment exchange services of the corporations. In particular, it shall be the duty of the trade unions of wage-earning and salaried employees to develop the skill and disciplinary ability of their members and to give the above-mentioned services such assurances respecting the vocational qualifications and character of such persons as undertakings may require.

47. It shall be the duty of the national trade unions to protect the rights and lawful interests of their members and of the persons engaged in the same occupation within their respective spheres of jurisdiction in all matters relating to the application of the legal provisions concerning workers' protection.

#### *(b) Provident Institutions under the Corporative System*

48. The labour organisation shall gradually be extended as circumstances permit to comprise provident funds or institutions intended to protect employees in case of sickness, invalidity or involuntary unemployment and to ensure them pensions on retirement.

(1) The corporative organisations shall establish and organise provident funds and institutions.

(2) Employers and employees shall contribute towards the raising of the moneys necessary for the said organisations, in the manner expressly laid down by the State or approved by it in cases where the persons concerned have taken the initiative.

(3) The management of the funds and of the moneys raised by joint contributions shall belong *de jure* to the representatives of both contributing parties.

49. The principle of protection due to victims of industrial accidents shall as a rule entail the liability of the employer.

The latter shall contribute financially with a view to providing the employee or the trade union concerned with the means necessary to safeguard him against occupational risks, even in the case of services in which direct liability for any accidents which may occur cannot legally be imputed to the employer.

## PART IV. LABOUR COURTS

50. All disputes which may arise with respect to the interpretation or carrying out of collective contracts of employment and all disputes which may arise between employers and employees with respect to the administration of the laws concerning the protection of national labour shall be referred to special courts with the right of appeal to a higher court. The said courts shall also be entitled to deal with questions concerning provident institutions.

51. The labour judges shall also exercise the functions of conciliators and arbitrators in disputes between employers and employees, especially in cases where there are only individual contracts of employment or where it is not necessary to apply the law in its strict sense; in these cases they may be assisted by representatives of the industrial associations to which the parties to the dispute belong.

52. The labour judges shall be independent; their decisions shall not be affected by previous instructions or service orders, and shall be issued solely in accordance with the law and the conscience of the judge. Officials of the public prosecutor's department shall be attached to the judges; they shall supervise the application of the law and shall be protectors of employees *ex officio*.

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RUMANIAConstitution<sup>1</sup>*20 February 1938*

## PART I. TERRITORY OF RUMANIA

3. The territory of Rumania shall not be settled with peoples of alien race.

## PART II. DUTIES AND RIGHTS OF RUMANIANS

*Chapter I. Duties of Rumanians*

4. All Rumanians, without distinction as regards racial origin or religious belief, are bound to regard their country as the basic reason for their existence, to sacrifice themselves for the defence of its integrity, independence and dignity, to contribute by their work to its moral aggrandisement and economic progress, to discharge faithfully the general obligations imposed on them by law and to contribute willingly to the performance of the public duties without which the State cannot exist.

5. All Rumanian citizens, without distinction as regards racial origin or religious belief, are equal before the law, to which they owe respect and obedience.

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<sup>1</sup> English translation by the International Labour Office from the Rumanian text in *Monitorul Oficial*, 20 Feb. 1938, No. 42, Part I, p. 954.

No-one may regard himself as released from his obligations, whether civil or military, public or private, on account of his religious or other beliefs.

6. There is no distinction of social class in the Rumanian State. Privileges in the assessment of taxes are prohibited. Reductions and increases in taxation must be general in character and must be prescribed by law.

7. No Rumanian shall be permitted to advocate, in speech or in writing, a change in the form of government of the State, the division or distribution of the property of others, exemption from taxation, or class war.

## *Chapter II. Rights of Rumanians*

10. Subject to the conditions prescribed by law, Rumanians enjoy liberty of conscience, liberty to work, freedom of instruction, freedom of the press, freedom of assembly, freedom of association and all other liberties from which rights are derived.

12. Individual liberty is guaranteed.

16. Property of every kind and claims against private individuals or the State are inviolable and are guaranteed as such.

Everyone has the right to dispose freely of his property in conformity with the rules laid down by law.

Property which belongs to the public domain is administered in accordance with the rules and in the form prescribed by law; it shall not be alienated except in conformity with these rules and in that form. No law may establish the penalty of confiscation of property except in case of high treason or misappropriation of public funds.

Property shall not be expropriated except for reasons of public utility and subject to the payment in advance of fair compensation fixed by the courts in conformity with the law. Expropriation for reasons of public utility shall mean exclusively expropriation which is of benefit to all members of the community, at the present time or in the future.

Expropriation for reasons of public utility other than national defence, work for military, public health, or cultural purposes, means of communication by land, water or sea, or public works provided for by existing legislation, shall not be ordered except by a law voted by both Chambers by a two-thirds majority.

17. Mining deposits and the riches of the subsoil are the property of the State. Ordinary rocks, quarries of building materials, and peat deposits are exceptions to this, without prejudice to rights acquired by the State under previous legislation. A special mining law shall be enacted to lay down rules and conditions for the development of such property, to fix the royalties due to the owner of the surface ground, which shall be not less than fifty per cent. of the royalty and of the price per hectare of the concession; the law shall at the same time prescribe the extent to which the owner will take part in the working of the subsoil.

Acquired rights in favour of the State based on concessions previously granted shall be respected.

18. Main and secondary roads, streets maintained by the State, a district, municipality or commune, navigable or floatable streams and rivers, alluvial deposits, natural and artificial ports, towpaths, airways, waters from which power can be generated for public purposes, and in general all property other than private property shall be deemed to belong to the public domain.

19. Liberty of conscience is absolute.

21. The right to impart instruction is free, subject to the conditions laid down by the special laws, and in so far as the exercise of this right is not contrary to morals, public order or the interests of the State.

Primary education is compulsory. It shall be given free of charge in the State schools.

22. The Constitution guarantees to every person, within the limits and subject to the conditions laid down by law, freedom to communicate and publish his ideas and opinions in speech, in writing, pictorially, by sound or in any other manner.

24. Rumanian citizens have the right to assemble peaceably and without arms, for the discussion of questions of all kinds, subject to compliance with the laws which govern the exercise of this right.

Assemblies, processions and manifestations on public highways or in the open air are subject to the police laws and regulations.

25. Every individual has the right to address petitions signed by one or more persons to the public authorities, but only on behalf of the signatories.

Only the constituted authorities have the right to present petitions in the name of a collective body.

26. Rumanian citizens have the right to form associations, subject to compliance with the laws.

The right of association does not entail the right to create corporate bodies; the conditions subject to which an association may be incorporated shall be laid down by law.

27. Rumanian citizens alone may be admitted to public posts and offices, whether civil or military, with due consideration for the numerical superiority of the Rumanian Nation and its predominant part in the creation of the State. Aliens shall not be admitted to such posts, save in exceptional cases prescribed by law.

Aliens in Rumanian territory enjoy the protection granted by the law to persons and property in general.

Only Rumanians by birth or naturalisation have the right to acquire or possess rural property in Rumania. Aliens shall have the right merely to the value of such property.

#### PART IV. FINANCE

80. No tax may be imposed or collected except in virtue of a law.

Taxes shall not be imposed by law except for the benefit of the State, a district, a commune or a public institution which is responsible for a State service.

81. Monopolies shall not be created except by law and for the benefit of the State, a district or a commune.

#### PART VIII. TRANSITIONAL AND CONCLUDING PROVISIONS

98. All land which was expropriated and distributed on the basis of the Act respecting agrarian reform in the Old Kingdom, dated 17 July 1921, the Act respecting agrarian reform in Bessarabia, dated 13 March 1920, the Act respecting agrarian reform in Transylvania, The Banat, Crisana and Maramuresh, dated 13 June 1921, and the Act respecting agrarian reform in Bukovina, dated 30 July 1921, shall be deemed to have been lawfully acquired and in the case of any present or future dispute shall continue to be subject to the system prescribed by the said Acts.

The provisions of the said laws incorporated in article 131 of the Constitution of 1923 retain their constitutional character.

Constitution<sup>1</sup>

29 March 1923

5. Rumanians, without discrimination as regards racial origin, language or religion, enjoy liberty of conscience, freedom of instruction, freedom of the press, freedom of assembly, freedom of association and all other liberties and rights established by law.

6. . . . .

The civil rights of women shall be established on the basis of complete equality of the sexes.

7. Differences of religious belief or sect or of racial origin and language do not constitute in Rumania an obstacle to the acquisition or exercise of civil and political rights.

8. (Act of 29 March 1927.) There is no distinction of birth or social class in the State.

All Rumanians, without discrimination as regards racial origin, language, or religion, are equal before the law and must pay taxes and other public dues without distinction.

Rumanians alone may be admitted to public posts and offices, whether civil or military.

Special laws shall be enacted to prescribe the conditions for admission to State employment and for promotion in such employment.

Aliens shall not be admitted to public posts save in exceptional cases expressly prescribed by law.

9. Every alien in Rumanian territory enjoys the protection granted by the law to persons and property in general.

10. All privileges of whatever nature and all exemptions and class monopolies are prohibited forever in the Rumanian State.

. . . . .

15. The penalty of confiscation of property shall not be established.

17. Property of all kinds and claims against the State are guaranteed.

(Act of 29 March 1923.) For the purpose of work of general interest the public authorities, in virtue of a law, may utilise the subsoil under any real estate, provided that they shall be bound to pay compensation for damage caused to the surface, to buildings or to existing works of any kind. In default of an agreement the compensation shall be fixed by the courts.

Property shall not be expropriated except for reasons of public utility and subject to payment in advance of fair compensation fixed by the courts.

A special law shall be enacted to specify cases of public utility and prescribe the procedure and rules for expropriation.

Cases of public utility, other than expropriation for means of communication, purposes of public health, national defence, and work of general interest to the State and public departments, must be established by laws voted by a two-thirds majority.

Existing laws concerning the widening and alignment of public highways in the communes, and the banks of watercourses along such highways or crossing them, shall continue in operation throughout the whole of the Kingdom.

19. (Act of 29 March 1923.) Mining deposits and all the riches of the subsoil are the property of the State. Ordinary rocks, quarries of building materials

<sup>1</sup> English translation by the International Labour Office from French text in DARESTE: *Les constitutions modernes*, 4th edition, Vol. II, 1929, pp. 351-379; for Rumanian text, see *Monitorul Oficial*, 1923, No. 282, Part I, p. 13,315.

and peat deposits are exceptions to this, without prejudice to rights acquired by the State under previous legislation.

A special mining law shall be enacted to lay down rules and conditions for the development of such property, to fix the royalties due to the owner of the surface ground, and to prescribe at the same time the extent of his participation in the working of the subsoil.

Acquired rights shall be taken into account, in so far as they are compatible with the development of the subsoil and in conformity with provisions to be laid down by a special law. Mining concessions granted in conformity with the laws in force shall be respected for the period for which they have been granted, but existing mining undertakings worked by the owners shall be left undisturbed only so long as they continue to be worked by the owners. Concessions in perpetuity are prohibited.

Nevertheless, all concessions and undertakings specified in the preceding paragraph must comply with rules to be laid down by a law, which shall fix the maximum duration of such concessions or the operation of such undertakings, provided that this maximum shall not exceed fifty years reckoned from the promulgation of this Constitution.

20. (Act of 29 March 1923.) Means of communication, airways and navigable and floatable waterways are public property.

Waters from which power may be generated and waters which can be utilised in the general interest are public property.

Acquired rights shall be respected or redeemed, by expropriation for reasons of public utility, in return for fair compensation payable in advance.

Special laws shall be enacted to prescribe the extent to which the above rights may be retained by their holders, and to lay down rules for the operation thereof and the compensation to be granted for the use of the surface ground and for existing installations.

21. ((Act of 29 March 1923.) All factors of production are entitled to equal protection.

The State may intervene by legislation in the relations between these factors for the purpose of preventing economic or social disputes.

Liberty to work shall be protected.

The law shall regulate the social insurance of workers against sickness, accident, etc.

.....  
The State, the departments and the communes shall assist pupils without means, at all stages of education, to the extent and in the manner prescribed by law.

25. (Act of 8 June 1884.) The Constitution guarantees to every person freedom to communicate and publish his ideas and opinions in speech, in writing and in the press, provided that each individual is responsible for abuse of this freedom, in the cases laid down by the Penal Code, which shall not in any case restrict this right in itself. No emergency law shall be enacted respecting this. No censorship or other preventive measure may be established against the issue, sale or distribution of any publication whatsoever.

The permission of any authority in advance shall not be requisite for the issue of any publication whatsoever.

Journalists, authors, publishers, printers or lithographers shall not be required to deposit any security.

The press shall never be subjected to the system of preliminary warnings.

No newspaper or publication may be suspended or suppressed.

(Act of 23 March 1923:) Every periodical publication of whatever nature must have a responsible director and in his absence a responsible manager, in both cases persons in possession of their civil and political rights. The name of

the director and of the editor shall appear conspicuously and permanently at the head of the publication.

Before a periodical publication appears, its owner must give notice to, and register its name with, the Commercial Court.

Penalties for contraventions of these provisions shall be laid down by a special law.

26. (Act of 23 March 1923.) In the case of non-periodical publications the author is responsible for what he writes, and in default of the author the publisher; the owner of the printing undertaking is responsible if neither the author nor the publisher have been discovered.

In the case of periodical publications the author, the manager or the editor, in that order, shall be responsible.

The proprietor shall be jointly liable in every case for the payment of civil compensation.

Press offences shall be judged by a jury, with the exception of the following offences which shall be judged by the ordinary courts, in conformity with the ordinary law:

- (a) Offences committed against the Sovereign, the Crown Prince, members of the royal family, heads of foreign States or their representatives;
- (b) Direct incitement to murder and rebellion in cases where no action has been taken in consequence;
- (c) Slander and libel directed against private individuals or public officials whose private life or honour would be prejudiced thereby.

Preventive arrest in matters relating to the press is prohibited.

#### PART VIII. TRANSITIONAL AND SUPPLEMENTARY PROVISIONS

131. The provisions of the agrarian laws relating to arable land, woods and forests, marshland, subject to total or partial expropriation, the subsoil, compensation, rules for payment, etc., as prescribed in the sections hereinafter enumerated of each of the agrarian laws, have and shall retain a constitutional character; the said sections in their entirety form an integral part of this Constitution and accordingly shall not be amended except in conformity with the regulations laid down for the revision of the Constitution:

- (a) Sections 1 (second paragraph), 2, 3 (first paragraph), 4, 6-10, 13, 14, 16, 18, 21, 23, 32, 36 and 69 of the Act respecting agrarian reform in Oltenia, Wallachia, Moldavia, and Dobruja (Old Kingdom), dated 17 July 1921;
- (b) Sections 2, 4-13, 16, 45-50 and 53 of the Act respecting agrarian reform in Bessarabia, dated 13 March 1920;
- (c) Sections 3-14, 16, 18, 22, 24, 32, 50 and 85 of the Act respecting agrarian reform in Transylvania, The Banat, Crisana and Maramuresh, dated 30 July 1921;
- (d) Sections 2, 3, 4, 5 (a) (first paragraph), 6, 7, 9, 10, 12, 13, 29, 31 and 55 of the Act respecting agrarian reform in Bukovina, dated 30 July 1921.

132. For the purpose of satisfying the normal requirements of the rural population of the Kingdom, Bessarabia and Bukovina, as regards wood for fuel and for building purposes, the State is bound to take the areas necessary for this purpose from woods and forests in the plains, on the hills and on the mountains. In the Old Kingdom and in Bukovina, in places where there are no forests to satisfy the above requirements, within a radius of twenty kilometres, calculated



from the centre of the commune, the State, by way of exception to section 7 (c), 8 (a), (b) and (c) of the Act for agrarian reform in Oltenia, Wallachia, Moldavia and Dobruja, dated 17 July 1921, and section 5 (a) (fourth paragraph) and sections 6 and 7 of the Bukovina Agrarian Reform Act of 30 July 1921, may expropriate forests belonging to public or private bodies corporate situated within that radius, and in default of such bodies corporate it may expropriate proportionately forests belonging to private owners within the said radius, but only within the limits of the requirements of the population and subject to the proviso that an area of one hundred hectares shall be left untouched in every case.

Forests which have been replanted or are in course of replantation shall not be expropriated, irrespective of the ownership thereof.

Sales contracts for the working of forests liable to expropriation which are in operation at the date of the expropriation shall be respected.

Forests which are thus expropriated shall remain the property of the State which shall utilise the said forests in the first instance in order to meet the above-mentioned necessities in conformity with the law.

Such forests shall be expropriated subject to payment in advance of fair compensation assessed by the courts.

Rules for expropriation shall be laid down by a special law.

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## SAAR TERRITORY

### Treaty of Versailles, 28 June 1919<sup>1</sup>

#### PART III. POLITICAL CLAUSES FOR EUROPE

##### *Section IV. Saar Basin. Annex*

#### CHAPTER I. CESSION AND EXPLOITATION OF MINING PROPERTY

##### 11.

The mines and other immovable property which become the property of the French State may never be made the subject of measures of forfeiture, forced sale, expropriation or requisition, nor of any other measure affecting the right of property.

The personnel and the plant connected with the exploitation of these mines or their accessories and subsidiaries, as well as the product extracted from the mines or manufactured in their accessories and subsidiaries, may not at any time be made the subject of any measures of requisition.

The exploitation of the mines and their accessories and subsidiaries, which become the property of the French State, will continue, subject to the provisions of paragraph 23 below, to be subject to the régime established by the German laws and regulations in force on November 11, 1918, excepting provisions adopted exclusively in view of the state of war.

The rights of the workmen shall similarly be maintained, subject to the

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<sup>1</sup> Text from *The Treaties of Peace 1919-1923*, Vol. I, Carnegie Endowment for International Peace, New York, 1924, pp. 32-47.

provisions of the said paragraph 23, as established on November 11, 1918 by the German laws and regulations above referred to.

No impediment shall be placed in the way of the introduction or employment in the mines and their accessories and subsidiaries of workmen from without the Basin.

The employees and workmen of French nationality shall have the right to belong to French labour unions.

14.

The French State shall always have the right of establishing and maintaining, as incidental to the mines, primary or technical schools for its employees and their children, and of causing instruction therein to be given in the French language, in accordance with such curriculum and by such teachers as it may select.

It shall also have the right to establish and maintain hospitals, dispensaries, workmen's houses and gardens, and other charitable and social institutions.

15.

The French State shall enjoy complete liberty with respect to the distribution, despatch and sale prices of the products of the miners and their accessories and subsidiaries.

Nevertheless, whatever may be the total product of the mines, the French Government undertakes that the requirements of local consumption for industrial and domestic purposes shall always be satisfied in the proportion existing in 1913 between the amount consumed locally and the total output of the Saar Basin.

*Chapter II. Government of the Territory of the Saar Basin*

23.

No modification may be made in the legal régime for the exploitation of the mines, provided for in paragraph 12, without the French State being previously consulted, unless such modification results from a general regulation respecting labour adopted by the League of Nations.

In fixing the conditions and hours of labour for men, women, and children, the Governing Commission is to take into consideration the wishes expressed by the local labour organisations, as well as the principles adopted by the League of Nations.

24.

Subject to the provisions of paragraph 4, no rights of the inhabitants of the Saar Basin acquired or in process of acquisition at the date of coming into force of this Treaty, in respect of any insurance system of Germany or in respect of any pension of any kind, are affected by any of the provisions of the present Treaty.

Germany and the Government of the territory of the Saar Basin will preserve and continue all of the aforesaid rights.

28.

Under the control of the Governing Commission the inhabitants will retain their local assemblies, their religious liberties, their schools and their language.

## 29.

Any of the inhabitants of the Saar Basin who may desire to leave the territory will have full liberty to retain in it their immovable property or to sell it at fair prices, and to remove their movable property free of any charges.

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## SAN MARINO

### Statutory Laws of the Republic<sup>1</sup>

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#### Agrarian Statute<sup>2</sup>

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## SILESIA

### Convention between Germany and Poland respecting Upper Silesia<sup>3</sup>

15 May 1922

#### ARTICLE 586

##### I

1. An Advisory Labour Committee consisting of a President and ten Assessors shall be set up at the seat of the Mixed Commission, for a period of not less than fifteen years.

2. The President and two Assessors shall be appointed for a term of three years each by the Governing Body of the International Labour Office. The President shall not be either German or Polish. Of the two Assessors appointed by the Governing Body one must be Polish and the other German.

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<sup>1</sup> For Latin text, see *Raccolta delle Leggi e Decreti della Repubblica di San Marino*, first official edition, Citta di Castello, 1900, pp. 1-66; *Leges Statutae Republicae Sancti Marini*, Book I, De Arengo Generali. Certain of the provisions of the Statutory Laws have now been superseded by the Electoral Law of 18 Nov. 1926, a French translation of which is available in DARESTE: *Les constitutions modernes*, 4th edition, Vol. I, 1928, pp. 423-430.

<sup>2</sup> For Italian text, see *Raccolta*, pp. 197-250.

<sup>3</sup> English translation by the International Labour Office; for the full French text of the Convention, see KAECKENBEEK: *The International Experiment of Upper Silesia*, 1942, pp. 567-822.

The Convention includes detailed provisions regarding expropriation of property (articles 7-24), civil and political rights (articles 74-84), religion (articles 84-96), education (articles 97-133), trade unions (articles 159-166), collective agreements (articles 167-169), social insurance (articles 171-215), customs questions (articles 216-258), circulation permits (articles 259-305), monetary questions (articles 306-313), banks (articles 314-329), coal mining (articles 330-335), water supply (articles 336-369), electricity (articles 370-380), posts, telegraph and telephone (articles 381-395), railways (articles 396-500). In view of the detailed and special character of these provisions, they have not been included in the present volume. In the case of the great majority of them there does not appear to be any English translation; English translations of certain articles are contained in KAECKENBEEK: *op. cit.*; article 586 is included here in view of its interest in relation to the discharge by the International Labour Organisation of special functions under regional arrangements.

3. These Assessors shall be recommended by the German Government and by the Polish Government, who shall select them from among persons in their respective countries who are experts in labour legislation. They shall not be employers or employees.

4. The other eight Assessors shall be appointed for one year, four by the Polish Government and four by the German Government, and shall be selected in equal numbers from employers and employees in the respective parts of the plebiscite territory. Before appointing these Assessors the German Government and the Polish Government must come to an understanding with the competent recognised German and Polish associations of employers and employees in the plebiscite territory.

5. Each Government shall appoint a substitute for each Assessor in the same manner.

6. The appointments shall be made for the calendar year (from 1 January to 31 December). The appointments may be renewed. Appointments for the year 1922 shall expire on 31 December 1922.

## II

1. Before giving a decision in any dispute relating to non-recognition or restriction of the rights of associations of employers and employees, in conformity with Title I of the Fourth Part of this Convention, the Mixed Commission, at the request of one of the State Agents, must consult the Advisory Labour Committee.

2. Before requesting the opinion of the Advisory Labour Committee the Mixed Commission shall be bound to ascertain the state of the case so far as possible. The Advisory Labour Committee shall be bound by the findings of the Mixed Commission.

3. The opinion of the Advisory Committee shall be given by a majority vote at a sitting at which all the members are present; the opinion must be submitted to the Mixed Commission in writing accompanied by a statement of the grounds on which it is based.

4. At the request of the Mixed Commission an explanatory statement respecting the opinion must be given orally before the Mixed Commission by one or more members of the Committee.

## III

1. Before the Mixed Commission takes a decision respecting the question whether new Polish provisions relating to labour legislation, within the meaning of article 1, may be submitted by the German Government to the Permanent Court of International Justice for a decision respecting them, the Commission, at the request of one of the State Agents, shall be bound to consult the President and the two Assessors appointed by the Governing Body of the International Labour Office, in order to ascertain whether the new Polish provisions in question are or are not suitable to replace the provisions in force.

2. The request for the giving of this opinion must be addressed to the President of the Advisory Committee. The opinion must be given in writing. The Mixed Commission may require an explanation respecting the opinion to be given before it by a person who took part in the drafting thereof.

## IV

1. In all cases of disputes relating to labour matters which are submitted to it, the Mixed Commission may ask the advice of the eight Upper Silesian members of the Advisory Committee. This shall apply likewise in the cases

covered by paragraphs 2 and 3 if neither of the State Agents requests the opinion of the Advisory Committee or of its President and of the two members appointed by the Governing Body of the International Labour Office.

2. The opinion of the eight Upper Silesian members of the Advisory Committee shall be given on the basis of a vote taken after oral discussions at the seat of the Mixed Commission. The opinion voted by a majority of the eight members shall be accompanied by reasons and transmitted in writing to the Mixed Commission.

3. In default of a majority vote, the different opinions expressed may be submitted. At the request of the Mixed Commission explanations respecting these opinions must be given before the Commission by one or more persons who took part in the drafting thereof.

4. A vote respecting an opinion shall not be adopted unless all the eight members are present at the sitting.

## V

1. Without prejudice to meetings held in case of emergency, plenary sittings of the Advisory Committee shall be held regularly once a year and shall be convened by the President. The eight Upper Silesian members shall meet when necessary.

2. An attested copy of every opinion given by the Advisory Committee or by a group of its members shall be sent to the International Labour Office.

## VI

The provisions of article 576 of the Sixth Part of this Convention, relating to languages, shall apply to the Advisory Committee, *mutatis mutandis*. The opinions of the Committee must be drafted both in Polish and in German.

## VII

The business of the Advisory Committee shall be conducted by the secretariat of the Mixed Commission. If, in the opinion of the Mixed Commission, the said business necessitates the appointment of a special secretary, the said secretary shall be appointed by the International Labour Office after agreement with the German Government and the Polish Government. The secretary shall not be either German or Polish.

## VIII

1. The President of the Advisory Committee and the secretary mentioned in the preceding paragraph shall enjoy the privileges and immunities prescribed in paragraph 1 of article 572.

2. Articles 570, 571 and 573 shall apply to them, *mutatis mutandis*.

## IX

1. The members of the Advisory Committee shall not receive a salary but shall be granted an allowance for each working day, travelling day or day on which Committee meets, and also payment of travelling expenses.

2. The amount of the fees payable to the President shall be fixed in conformity with the relevant regulations of the International Labour Office.

3. The amount of the fees of the Assessors shall be fixed in conformity with provisions to be issued by the respective Governments.

4. The general expenses of the Advisory Committee shall be included in the expenses of the Mixed Commission.

## X

The Mixed Commission shall draw up standing orders for the Advisory Committee, after consultation with the President of the said Committee.

## XI

The provisions of this article relating to the Advisory Committee shall not come into operation until the Governing Body of the International Labour Office has informed the two parties concerned that it accepts the duties specified in the said provisions.

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# SPAIN

## Labour Charter<sup>1</sup>

9 March 1938

### CHAPTER I. STATUS OF LABOUR

1. *Definition.* Labour is the participation of man in production by the voluntary exercise of his intellectual and manual powers according to his individual vocation, in harmony with the dignity and comfort of his existence and the satisfactory development of the national economy.

2. *Dignity of labour.* Labour is essentially personal and human and shall not be regarded as a mere commercial commodity nor be the subject of any transaction incompatible with the personal dignity of the worker.

3. *Right to work.* The right to work is the consequence of the duty imposed on man by God, for the achievement of his individual aims and for the prosperity and greatness of his country.

4. *Protection of labour.* The State shall esteem and dignify labour as the fertile expression of the creative spirit of man and with this conception shall protect it with all the authority of the law, bestow upon it every possible advantage and make it compatible with the achievement of the other aims of the individual, family and community.

5. *Social duty required of all Spaniards.* Work shall be regarded as a social duty and as such shall be exacted in one form or another from every Spaniard capable of performing it, as a compulsory contribution to the national wealth.

6. *The State as the guardian of the worker.* Work is one of the most noble attributes of rank and honour and constitutes a sufficient claim to the assistance and protection of the State.

7. *Conditions and aims of work.* Service is work performed under conditions

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<sup>1</sup> English translation from INTERNATIONAL LABOUR OFFICE: *Legislative Series*, 1938, Sp. 1; for Spanish text, see *Boletín Oficial del Estado*, 10 Mar. 1938, No. 505; *Boletín Oficial*, 11 Mar. 1938, No. 506, *errata*.

of heroism, unselfishness and self-sacrifice, with the object of contributing to the higher good represented by the Spanish State.

8. *Right to work.* All Spaniards shall be entitled to work. The satisfaction of this right shall be the primary duty of the State.

## CHAPTER II. REGULATION OF EMPLOYMENT

1. *Hours of work; prohibition of night work for women and children; homework; prohibition of employment of married women in workshops and factories.* The State shall assume responsibility for constant and efficacious action for the protection of the worker, his life and his labour. It shall place suitable restrictions upon hours of work, in order that the working day shall not be excessive, and shall safeguard labour by affording it every possible guarantee of a protective and humanitarian character. In particular, it shall prohibit night work for women and children, regulate homework and set married women free from the ties of the workshop and factory.

2. *Sunday rest.* The State shall maintain Sunday rest as an inviolable condition in the performance of work.

3. *Religious festivals and civil holidays.* With due consideration for the technical needs of the undertakings concerned, the law shall require observance of the traditional religious holidays and statutory civil holidays and attendance at the ceremonies ordered by the national authorities of the Movement, without loss of remuneration.

4. *Labour Day.* The eighteenth day of July is hereby declared a national holiday in commemoration of the glorious Revolt and shall be celebrated as the National Labour Day.

5. *Annual holidays with pay.* Every worker shall be entitled to annual holidays with pay, in order that he may enjoy a well deserved rest; for this purpose institutions shall be set up to ensure the best application of this provision.

6. *Workers' spare time.* The necessary institutions shall be set up to provide workers during their spare time with facilities for the enjoyment of all the benefits of education, recreation, military training, health and sports.

## CHAPTER III. REMUNERATION

1. *Minimum wage.* The remuneration for work shall not be less than the amount sufficient to enable the worker and his family to live a fitting and honourable life.

2. *Family allowances.* Family allowances shall be introduced by means of suitable organisations.

3. *Standard of living of workers.* The workers' standard of living shall be raised gradually and steadily, in so far as the superior interest of the nation may permit.

4. *Mutual duties of employers and employees.* The State shall lay down principles for the regulation of employment and the relations between employees and employers shall be established on the basis of these principles. The fundamental basis of these relations shall be the performance of work and remuneration therefor and further the mutual duties of loyalty, assistance and protection on the part of employers and faithfulness and obedience on the part of employees.

5. *Conditions under which work is performed.* The State shall take steps to ascertain through the industrial associations that the economic and other conditions under which work is performed satisfy the just claims of the workers.

6. *Guarantee of stability of employment.* The State shall take measures to ensure stability of employment.

7. *Information to be given by employers to their employees respecting the*

*progress of production.* Employers shall inform their employees of the progress of production in so far as may be necessary to strengthen in them a sense of responsibility in the work of the undertaking, under the terms and conditions laid down by law.

#### CHAPTER IV. HANDICRAFTS

1. *Encouragement and protection.* Handicrafts, the living heritage of a glorious corporative past, shall be encouraged and efficaciously protected, as being the complete reflection of the human personality of the worker in his work and a form of production having as little in common with capitalistic concentration as with Marxist collectivism.

#### CHAPTER V. AGRICULTURE

1. *Principles of work.* The principles governing work in agricultural undertakings shall be adapted to the special characteristics of this form of work and the seasonal variations imposed by nature.

2. *Technical instruction.* The State shall pay special attention to the technical instruction of the farmer to make him capable of performing all the various processes necessitated by the operation of a farm.

3. *Revaluation of agricultural products.* The prices of the principal products shall be regulated and revised for the purpose of ensuring minimum profits for the farmer in normal circumstances, and consequently requiring him to pay to the workers rates of wages which will allow them to improve their living conditions.

4. *Small holdings.* Every peasant family shall be granted a small holding or family plot which will enable the family to meet its essential needs and will provide occupation in case of unemployment.

5. *Rural housing.* The standard of rural life shall be raised by improving rural housing and health conditions in the villages and hamlets of Spain.

6. *Stability of employment in agriculture.* The State shall ensure stability of employment in agriculture by means of long-term contracts which will guarantee the farmers against unjustified notice and ensure them the full benefit of any improvements made in the land farmed by them. The State is desirous of providing suitable means for the transfer of the land on equitable terms to those who are directly engaged in its development.

#### CHAPTER VI. MARITIME WORKERS

1. *Protection of seamen.* The State shall devote special care to maritime workers and shall provide them with suitable institutions to prevent the depreciation of merchandise and to help them to acquire the means necessary for the exercise of their calling.

#### CHAPTER VII. LABOUR JUDICATURE

1. *Transfer of judicature to the State.* A new labour judicature shall be set up based on the principle that the State is responsible for social justice.

#### CHAPTER VIII. ORGANISATION OF UNDERTAKINGS

1. *Definition of capital.* Capital is a means of production.

2. *Hierarchy of elements of production.* The undertaking as the producing unit



shall organise its component elements in a hierarchy which shall subordinate material requirements to the human elements and both to the common weal.

3. *Management of undertakings and responsibility therefor.* The head of the undertaking shall himself assume the management thereof and shall be responsible therefor to the State.

4. *Distribution of profits.* The profits of the undertaking, after deduction of an equitable interest on capital, shall be utilised primarily for the constitution of the reserve necessary for the stability of the undertaking, the improvement of production and the amelioration of the conditions of employment and standard of living of the workers.

#### CHAPTER IX. CREDIT

1. *Credit.* Credit shall be organised so as to contribute to the establishment and maintenance of small undertakings in agriculture, fishing, industry and commerce, while at the same time fulfilling its task of developing the wealth of the nation.

2. *Prosecution for usury.* Honesty and confidence based on competency and work shall constitute effective guarantees for the granting of credit. The State shall prosecute relentlessly every form of usury.

#### CHAPTER X. SOCIAL WELFARE AND INSURANCE

1. *Purpose of social welfare.* The social welfare system shall give the workers the certainty of protection in case of misfortune.

2. *Social insurance.* The various branches of social insurance, namely, insurance against old age, invalidity, maternity, industrial accidents, occupational diseases, tuberculosis and unemployment, shall be developed with a view to the organisation of a complete system of insurance. In the first place measures shall be taken to ensure the provision of adequate superannuation allowances for aged workers.

#### CHAPTER XI. NATIONAL PRODUCTION

1. *Economic unity; subordination of production to the national interest.* National production shall constitute an economic unit in the service of the nation. It shall be the duty of every Spaniard to defend, improve and augment production. All factors of production shall be subordinated to the supreme interest of the nation.

2. *Interference with the normal course of production.* Individual or collective action which tends in any way to disturb or impede the normal course of production shall be deemed to be a crime against the nation.

3. *Reduction of output.* The fraudulent reduction of output shall be suitably punished.

4. *Lack of private enterprise.* As a general rule the State shall not engage in production unless this is necessary owing to lack of private enterprise or in the higher interests of the nation.

5. *Unfair competition.* The State, acting directly or through its industrial organisations, shall prevent unfair competition in the field of production and also any activities which hinder the normal stability or development of the national economy, and on the other hand shall encourage all efforts which tend to promote improvements in production.

6. *Private enterprise.* The State recognises private enterprise as the perennial source of the economic life of the nation.

## CHAPTER XII. PRIVATE PROPERTY

1. *Recognition, protection and limitation of private property.* The State recognises and protects private property as the natural means for the fulfilment of the functions of the individual, the family and the community. All forms of property shall be subordinated to the supreme interest of the nation, of which the State is the embodiment.

2. *Facilities for ownership and the extension thereof.* The State assumes the task of multiplying and making accessible to all Spaniards the forms of ownership which are vital to the individual as a human being, namely, the family home, inheritance of land and the tools and implements of work for daily use.

3. *The family heritage exempt from attachment.* The State recognises the family as the natural nucleus and foundation of society and at the same time as a moral institution endowed with inalienable rights superior to any positive law. As a further guarantee of its maintenance and continuity the family heritage shall be exempt from attachment.

## CHAPTER XIII. NATIONAL TRADE UNION ORGANISATION

1. *Fundamental principles.* The national trade union organisation of the State shall be based on the principles of unity, totality and graduated authority.

2. *Vertical unions.* All factors of economic life shall be incorporated in vertical unions according to branches of production or services. The liberal and technical professions shall be organised in a similar system, in conformity with the provisions to be laid down by law.

3. *The vertical union.* The vertical union shall be a public body incorporating in a single organisation all elements which are engaged in the economic process in a specified service or branch of production; the union shall be organised in hierarchic grades under the direction of the State.

4. *Trade union authority.* The direction of the unions shall devolve necessarily upon the militant members of the Spanish Traditionalist Phalanx and the Young Workers' National Trade Union Movement.

5. *Subordination of the unions to the State. Powers and duties of the unions.* A vertical union shall be an instrument in the service of the State and shall constitute the principal medium through which the State will put its economic policy into effect. It shall be the duty of the union to study problems of production and recommend solutions, in accordance with the national interests. The vertical unions may take part in the regulation, supervision and application of conditions of employment, through bodies specially equipped for the purpose.

6. *Bodies dependent on the unions.* A vertical union may set up, maintain or supervise institutions for research, for moral, physical and vocational education, for welfare and relief and for other social purposes affecting persons engaged in production.

7. *Employment exchanges.* Employment exchanges shall be set up with a view to providing employment for workers according to their ability and merits.

8. *Production statistics.* It shall be the duty of the unions to furnish the State with the data requisite for the compilation of statistics of production.

9. *Incorporation of economic and industrial associations.* The law respecting the organisation of trade unions shall specify the manner in which the existing economic and industrial associations shall be incorporated in the new organisation.

## CHAPTER XIV. PROTECTION OF NATIONAL LABOUR

1. *International treaties. Spanish workers abroad.* The State shall issue the necessary provisions for the protection of Spanish labour in Spain and shall take

steps by means of labour treaties with other Powers to secure protection of the conditions of employment of Spanish workers resident abroad.

#### CHAPTER XV. NATIONAL RENAISSANCE

1. *Equality of rights and duties of all engaged in production.* At the time of the promulgation of this Charter Spain is waging a heroic struggle in which she is upholding the spiritual and cultural values of the world at the sacrifice of no small portion of her material riches.

It shall be the duty of all citizens in every branch of economic life to manifest the same spirit of gallant self-sacrifice as is shown by the youth of Spain on the battlefield and by Spain herself.

Accordingly, in this Charter of rights and duties the State has enumerated, as being the most urgent and imperative, the rights and duties of those elements of production which must make a just and resolute contribution towards the rebuilding of Spain and the laying anew of the foundations of her might.

#### CHAPTER XVI. HONOUR TO THE FIGHTING FORCES

1. *Preference to be given to members of the fighting forces in posts of labour, honour and command.* The State hereby undertakes to appoint the youthful combatants to the posts of labour, honour and command, to which they have a right as Spaniards and which they have won as heroes.

### Constitution of the Spanish Republic<sup>1</sup>

9 December 1931

#### PRELIMINARY PART. GENERAL PROVISIONS

2. All Spaniards are equal before the law.

7. The Spanish State will respect the universal rules of international law and incorporate the same in its enacted laws.

14. Legislation and direct execution in connexion with the following matters lie within the exclusive competence of the Spanish State:

(3) Diplomatic and consular representation and, in general, representation of the State abroad; declaration of war; treaties of peace; colonial and protectorate régimes; and every class of international relations;

(4) Defence of public order in conflicts of a super-regional or extra-regional character;

(5) Maritime fisheries;

(6) National debt;

(7) Army, navy and national defence;

(8) Customs tariffs, commercial treaties, custom houses and the free circulation of merchandise;

(9) Registration of merchant ships, their rights and privileges and lighting of the coasts;

<sup>1</sup> English translation from *British and Foreign State Papers*, Vol. 134, 1931, pp. 1141-1166; for Spanish text, see *Gaceta de Madrid*, 10 Dec. 1931, No. 344, p. 1578. For an English translation of the Political Constitution of the Spanish Monarchy, of 30 June 1876, see W. F. DODD: *Modern Constitutions*, Vol. II, 1909, pp. 196-216.

- (12) Monetary system, fiduciary issue and the regulation of banking in general;
- (13) General communication systems, air lines, posts, telegraphs, submarine cables and wireless communication;
- (14) Hydraulic improvements and electric installations, either when the waters discharge themselves outside an autonomous Region or the energy produced is exported therefrom;
- (15) Sanitary defence in so far as it affects extra-regional interests;
- (16) Frontier police, emigration, immigration and aliens;
- (17) General finances of the State;
- (18) Control of the manufacture of and traffic in arms.

15. Legislation on the following matters is an attribute of the Spanish State, but its execution may be delegated to autonomous Regions within the scope of their political competence, if so decided by the Cortes:

- (1) Legislation on penal, social and commercial matters and judicial proceedings; and matters relating to civil legislation, the form of matrimony, the compilation of registers and mortgages, the bases of contractual obligations and the regulation of personal, real and formal statutes, in order to co-ordinate the application and adjust the conflicts between the different civil legislations of Spain;
- The execution of social laws shall be supervised by the Government of the Republic, in order to guarantee their strict fulfilment and that of international treaties in connection therewith;
- (2) Legislation concerning intellectual and industrial property;
  - (3) Efficacy of official statements and public documents;
  - (4) Weights and measures;
  - (5) Mining system and the essential regulations as to forestry, agriculture and stock-raising, in so far as they affect the protection of the national resources and the co-ordination of the national economy;
  - (6) Railways, highways, canals, telephones and ports of general interest, without prejudice to the right of the State to take over and police the first named, and to exercise such direct executive power as it may reserve to itself;
  - (7) The indispensable bases of domestic sanitary legislation;
  - (8) General and social insurance system;
  - (9) Legislation as to waters, hunting and river fishing;
  - (10) The press, associations, public meetings and spectacles;
  - (11) Right of expropriation, always excepting the right of the State to execute on its own account its special undertakings;
  - (12) Socialisation of natural resources and economic enterprises, the ownership and powers of the State and the Regions being defined by legislation;
  - (13) Services of civil aviation and wireless broadcasting.

17. In autonomous Regions there shall be no discrimination between natives of the country and other Spaniards.

### PART III

#### *Chapter I. Rights and Duties of Spaniards. Individual and Political Guarantees*

25. No juridical privilege may be based upon birth, relationship, sex, social class, wealth, political ideals or religious belief.

26. All religious confessions shall be regarded as associations subject to a special law.

Such religious Orders shall be dissolved as impose by their statutes, besides

the three canonical vows, a special vow of obedience to an authority other than the legitimate authority of the State. Their properties shall be nationalised and allocated to beneficent and educational purposes.

The other religious Orders shall be subjected to a special law passed by this Constituent Cortes and based on the following principles:

.....  
(4) Prohibition of the exercise of industry, commerce or education;  
.....

27. Liberty of conscience and the right to profess and practise freely any religion are guaranteed in Spanish territory, on condition of due respect to the exigencies of public morality.

Cemeteries shall be subject exclusively to civil jurisdiction. There shall be therein no separate enclosures based on religious motives.

.....  
31. All Spaniards may freely circulate throughout the national territory and choose therein their residence and domicile without being compelled to change the same except by virtue of an executory sentence.

The right to emigrate or immigrate is recognised, and is not subject to other limitations than those which the law prescribes.

A special law shall determine the guarantees for the expulsion of aliens from Spanish territory.

.....  
33. Everyone is free to choose his profession. Liberty of industry and commerce is recognised except for such limitations as the law may impose for economic and social reasons of general interest.

34. Every individual has the right freely to express his ideas and opinions, availing himself of any method of dissemination without being subject to prior censorship.

In no case may an issue of books or periodicals be withdrawn from circulation except by virtue of an order by the competent judge.

No periodical may be declared suspended except by definitive sentence.

35. Every Spaniard may address petitions, individually and collectively, to the public powers and to the authorities. This right may not be exercised by any branch of the armed forces.

38. The right of peaceful assembly, without arms, is recognised.

A special law shall regulate the right of assembly in the open air and that of demonstration.

39. Spaniards may freely form associations or syndicates for the various purposes of human life in conformity with the laws of the State.

Syndicates and associations must be inscribed in the appropriate public register according to law.

40. All Spaniards, without distinction of sex, are admissible to public posts and offices according to their merit and capacity, except for such disabilities as the law may specify.

41. Public officials shall be appointed, placed on the supernumerary list and retired in accordance with law. Their permanence is guaranteed by the Constitution. Removal from service, suspensions and transfers shall only take place for justifiable causes prescribed by law.

No public official may be molested or persecuted on account of his political, social or religious opinions.

.....  
Civil officials may form professional associations that involve no interference with the public service with which they may be charged. Professional associations of officials shall be regulated by a law. Such associations may have recourse to the courts against decisions of superior authorities which prejudicially affect the rights of officials.

*Chapter II. Family, Economic Conditions and Culture*

43. The family is under the special protection of the State. Matrimony is based on equality of rights for both sexes, and may be dissolved by mutual consent or upon the petition of either of the spouses, with allegation, in such case, of just cause.

Parents are obliged to support, assist, educate and instruct their children. The State shall supervise the performance of these duties and pledges itself to aid in their execution.

Parents have the same obligations towards children born out of wedlock as to those born in the married state. The civil laws shall regulate the investigation of paternity.

No declaration shall be entered in official records or in any register whatsoever as to the legitimacy or illegitimacy of births or the civil status of the parents.

The State shall aid the infirm and aged and give protection to maternity and infancy, adopting the "Declaration of Geneva" or the charter of the rights of children.<sup>1</sup>

44. All the resources of the country, whosoever may be their owners, are subordinated to the interests of national economy, and are for the maintenance of public charges in accordance with the Constitution and the laws.

Property of all kinds may be made the object of enforced expropriation for purposes of social utility upon adequate indemnification being paid, unless it be otherwise provided by a law approved by an absolute majority of the members of the Cortes.

On the same conditions property may be socialised.

Public services, and such exploitations as concern the general interests may be nationalised in cases where social necessities so demand.

The State may intervene legally in the exploitation and co-ordination of industries and enterprises, when the rationalisation of production and the interests of national economy require such action.

In no case shall the penalty of confiscation of property be imposed.

45. All the artistic and historical riches of the country, whosoever may be their owners, constitute the cultural treasure of the nation and shall be under the protection of the State, which may prohibit their exportation and alienation and decree such legal expropriation as it may deem expedient for their protection. The State shall draw up a register of artistic and historical riches, shall assure their zealous custody and shall see to their preservation in perfect order.

The State shall also protect localities notable for their natural beauty or for their recognised artistic or historical value.

46. Work, in its various forms, is a social obligation and shall enjoy the protection of the laws.

The Republic shall assure to every worker the conditions necessary for a fitting existence. Its social legislation shall regulate: cases of insurance for illness,

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<sup>1</sup> The text of this Declaration prepared by the Save the Children International Union is as follows:

1. The CHILD must be given the means needed for its normal development, both materially and spiritually.
2. The CHILD that is hungry must be fed; the child that is sick must be nursed; the child that is backward must be helped; the erring child must be reclaimed; and the orphan and the waif must be sheltered and succoured.
3. The CHILD must be first to receive relief in times of distress.
4. The CHILD must be put in a position to earn a livelihood, and must be protected against every form of exploitation.
5. The CHILD must be brought up in the consciousness that its talents are to be used in the service of its fellow men.

accident, unemployment, old age, invalidity and death; the labour of women and young persons, and especially the protection of maternity; the working day and the minimum and family salary rate; annual holidays with pay; conditions of Spanish workers abroad; co-operative institutions; the economic and legal relationship of factors entering into production; the participation of workers in the direction, administration and benefits of enterprises; and everything connected with the protection of workers.

47. The Republic shall protect peasants and to this end shall legislate, among other matters, concerning the non-sequestrable family patrimony exempt from any kind of taxation, agricultural credits, indemnification for loss of crops, co-operative associations for production and consumption, insurance funds, practical schools of agriculture, experimental farms, irrigation works and rural communication routes.

The Republic shall protect fishermen in a similar manner.

48. Cultural service is an essential function of the State and shall be rendered by means of educational institutions together with the system of unified schools. Primary instruction shall be gratuitous and obligatory.

Masters, teachers and professors are public officials. The liberty of the teacher is recognised and guaranteed.

The Republic shall so legislate as to assist Spaniards who may be pecuniarily in need to secure access to all grades of instruction, in order that such access may depend solely on aptitude and vocation.

Instruction shall be lay in character and shall make work the basis of its methods and activities. It shall be inspired by ideals of human solidarity.

Churches are accorded the right, subject to State inspection, to teach their respective doctrines in their own establishments.

49. The grant of academic and professional degrees is an exclusive attribute of the State, which shall determine the examinations and requirements necessary for obtaining them, even in cases when the diplomas of study are issued by educational centres of the autonomous Regions. A law of public instruction shall determine the scholastic age for each grade, the duration of scholastic periods, the contents of curricula and the conditions under which teaching in private institutions may be authorised.

50. The autonomous Regions may organise instruction in their respective languages, in accordance with the powers granted to them in their statutes. The study of the Castilian language is obligatory, and this language shall also be used as the medium of instruction in all centres of primary and secondary teaching in the autonomous Regions. The State may maintain or create therein institutions of learning of all grades in the official language of the Republic.

The State shall exercise supreme supervision throughout the national territory to insure the execution of the provisions of this article and those contained in the two foregoing articles.

The State shall promote the cultural expansion of Spain, establishing delegations and centres of study and instruction abroad, preferentially in the Hispano-American countries.

#### PART IV. THE CORTES

65. All international treaties ratified by Spain and registered with the League of Nations, which have the character of international law, shall be regarded as constituent parts of Spanish legislation, which must conform to the provisions therein set forth.

Upon the ratification of an international treaty affecting the juridical organisation of the State, the Government shall without delay submit to the Congress of Deputies the bills requisite for the execution of its terms.

No law may be issued in contradiction of the said treaties unless they shall have been previously denounced in the manner established therein.  
Initiation of denunciation must be sanctioned by the Cortes.

#### PART V. THE PRESIDENCY OF THE REPUBLIC

76. It is also the duty of the President of the Republic:

(e) To negotiate, sign and ratify international treaties and conventions concerning any subject and to supervise their execution throughout the national territory.

Treaties of a political character, commercial treaties, those which would impose a burden on the public Treasury or on Spanish citizens individually and, in general, all those whose execution requires measures of a legislative character, shall be binding upon the nation only if they have been approved by the Cortes.

The draft conventions of the International Labour Office shall be submitted to the Cortes within 1 year and, in exceptional circumstances, within 18 months from the date of the closing of the conference at which they have been adopted. After having been approved by Parliament, the President of the Republic shall sign the ratification thereof, which shall be communicated to the League of Nations for registration.

Other international treaties and agreements ratified by Spain shall also be registered with the League of Nations in accordance with article 18 of the Covenant of the League and for the purposes provided therein.

Secret treaties and agreements, and secret clauses in any treaty or agreement, shall not be binding on the nation.

78. The President of the Republic may not announce that Spain is withdrawing from the League of Nations without giving the preliminary notification required by the Covenant of the League, and upon authorisation by the Cortes in a special law voted by an absolute majority.

### Catalonia

#### Statute of the Autonomous Region of Catalonia<sup>1</sup>

*15 September 1932*

#### CHAPTER I. GENERAL PROVISIONS

3. Individual rights are those determined by the Constitution of the Spanish Republic. The *Generalitat* of Catalonia may not in settling any matter discriminate between natives of the country and other Spaniards. The latter shall never have lesser rights in Catalonia than those which Catalonians possess in the rest of the territory of the Republic.

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<sup>1</sup> English translation from *British and Foreign State Papers*, Vol. 135, 1932, pp. 754-764; for Spanish text, see *Gaceta de Madrid*, 21 Sept. 1932, No. 265, p. 2080.



## CHAPTER II. POWERS OF THE GENERALITAT OF CATALONIA

5. In accordance with the terms of article 11 of the Constitution, the *Generalitat* shall implement the legislation of the State in the following matters:

- (1) It shall give force to official statements and public documents.
- (2) Weights and measures.
- (3) Mining system and the essential regulations as to forestry, agriculture and stock-raising in so far as they affect the protection of the natural resources and the co-ordination of the national economy.
- (4) Railways, highways, canals, telephones, and ports of general interest, without prejudice to the right of the State to take over and police railways and telephones and the direct operation of those services which it may reserve to itself.
- (5) The essential bases of domestic sanitary legislation.
- (6) General and social insurance system. This shall be subject to the inspection laid down in article 6.
- (7) Waters, hunting and river fishing, without prejudice to the provisions of article 14 of the Constitution. Water conservancy boards whose radius of action extends to territories situated outside Catalonia, while maintaining their present domicile and autonomy, shall be exclusively subject to the State.
- (8) The press, associations, public meetings and spectacles.
- (9) The right of expropriation, always excepting the right of the State to execute on its own account its special undertakings.
- (10) The socialisation of natural resources and economic enterprises, the ownership and powers of the State and the region being defined by legislation.
- (11) Civil aviation and wireless broadcasting services, without prejudice to the right of the State to co-ordinate means of communication throughout the country.

The State may install its own broadcasting services and shall inspect those which function under concessions of the *Generalitat*.

6. The *Generalitat* shall organise all such services as the social legislation of the State has established or may establish. The functioning of these services and the application of social legislation shall be subject to governmental inspection in order to guarantee directly the strict observance of such laws and of relevant international treaties.

In connection with the powers conferred by the foregoing article, the State may appoint at any time such delegates as may be considered necessary to see that such laws are implemented. The *Generalitat* is obliged, at the request of the Government of the Republic, to make good any deficiencies noticed in the implementation of the said laws; if, however, the *Generalitat* considers the demand unjustified, the difference shall be submitted for decision to the Tribunal of Constitutional Guarantees in accordance with article 121 of the Constitution. The Tribunal of Constitutional Guarantees may, if it sees fit, suspend the implementation of the acts or orders to which the discrepancy relates until a final decision be reached.

7. The *Generalitat* of Catalonia may create and maintain educational institutions of all grades and degrees as it may deem expedient in accordance with the terms of article 50 of the Constitution; they shall be independent of the teaching and cultural institutions of the State and be maintained at the expense of the Treasury of the *Generalitat* as endorsed by the present Statute.

The *Generalitat* shall be responsible for the control of the fine arts, museums and libraries, and the preservation of monuments and records, except the archives of the Crown of Aragón.

Should the *Generalitat* so propose, the Government of the Republic may endow the University of Barcelona with an autonomous régime: in such case, it shall

be organised as a single university under a governing body offering mutual guarantees of co-existence, on a footing of equality of rights, to the Castilian and Catalan languages and culture, as regards both professors and pupils.

The examinations and requirements laid down by the State in accordance with article 49 of the Constitution for the grant of degrees shall hold good generally for all pupils from educational establishments maintained by the State and by the *Generalitat*.

12. The *Generalitat* of Catalonia shall be solely responsible for legislation and the actual implementation thereof in respect of the following:

- (a) Railways, roads, canals, ports and other public works in Catalonia, except those enumerated in article 15 of the Constitution.
- (b) Forests, agriculture, livestock, agricultural syndicates and co-operative societies, and agrarian social policy and activities, excepting the cases enumerated in No. (5) of article 15 of the Constitution and the reservation made in respect of social legislation in No. (1) of the same article.
- (c) Charity.
- (d) National health, except as provided in No. (7) of article 15 of the Constitution.
- (e) The establishment and administration of produce and stock exchanges in accordance with the general rules of the Commercial Code.
- (f) Co-operative societies, mutual help associations, and public granaries, with the reservation in the case of social legislation, made in No. (1) of article 15 of the Constitution.

13. The *Generalitat* of Catalonia shall take the necessary measures for carrying out treaties and agreements which relate to matters wholly or partially within the competence of the Region under the present Statute. If it does not do so in due time, the Government of the Republic shall be responsible for taking the necessary steps. The latter, by virtue of its responsibility for foreign relations, shall always exercise superior supervision over the fulfilment of the said treaties and agreements and over the observance of the principles of international law. All matters of this nature, such as official participation in international exhibitions and congresses, relations with Spaniards resident abroad or similar subjects, shall be within the competence of the State alone.

## Domestic Statute of the *Generalitat*<sup>1</sup>

26 May 1933

### PART II. SOCIAL PRINCIPLES

8. The family is under the guardianship of the *Generalitat*.

Matrimony is based on the equality of rights of the spouses.

The civil laws shall determine the rights and duties of children. They will also lay down rules for the investigation of paternity and the equality of children born in and out of wedlock.

9. The exercise of the right of ownership must be inspired by social interest. The *Generalitat* protects and confirms it, so far as it conduces to this end, and

<sup>1</sup> English translation from *British and Foreign State Papers*, Vol. 136, 1933, pp. 108-180; for Catalan text, see *Bulletí Oficial de la Generalitat de Catalunya*, No. 45, 27 May 1933.

the powers granted by the Statute to Catalonia will be applied with this object in view. All the natural riches of the country are subordinate to the interests of the general economic structure.

Parliament may intervene, by means of legislation, in the exploitation and co-ordination of industries and private undertakings, provided that this course be enjoined by the rationalisation of production and in the collective interests of Catalanian economy.

10. All property, movable or immovable, and all objects of whatever nature which have historic, artistic or scientific value may be declared of public interest. The *Generalitat* will enact measures for their preservation in accordance with those governing the cultural inheritance of the State.

11. Primary education will be obligatory, free and Catalan in language and spirit. It will be inspired by the ideals of work, liberty, social justice and the solidarity of humanity, and it will be carried out by educational institutions, inter-related by a system of unified schools. In all its grades it will be secular.

The *Generalitat* will facilitate access to all grades of education to better qualified pupils who lack means.

Academic freedom is recognised and guaranteed.

The *Generalitat* will protect the existence and the work of private institutions and foundations of learning which, in compliance with legal regulations, contribute to the spread of education and the intellectual development of the Catalanian people.

12. Work in all its forms is a social duty. The *Generalitat* will protect it within the limits of "its competence".

The *Generalitat* will organise technical and social instruction, encourage public thrift and promote co-operation and mutual assistance. It will devote preferential attention to everything which may contribute to the improvement of the social and economic conditions of the workers.

13. Workers and public officials may dispose of the time necessary to fulfil their political duties and to occupying the offices conferred by popular election, without diminution of their salaries, when the offices conferred do not carry remuneration.

Access to public offices shall have no limitations other than those specified by law.

14. Social assistance is a duty of the *Generalitat*. The *Generalitat* will provide for assistance in cases of maternity, infancy, old age, infirmity and invalidity in collaboration with the social insurance system, with the object of providing workers with means to meet the contingencies to which life is subject.

The *Generalitat* will control benevolent institutions of a private character.

15. Usury is absolutely forbidden.

16. The Government of the *Generalitat* will guarantee in all matters within its competence effectual compliance with the secular and social laws of the Republic.

The *Generalitat* has no official religion.

## PART V. JUDICIAL

64. The *Generalitat*, in cases within its competence, guarantees relief, total or in part, from payment of judicial costs to necessitous persons.

## Basque Provinces

### Statute of the Basque Provinces<sup>1</sup>

6 October 1936

#### PART I. EXTENT OF AUTONOMY

2. In accordance with articles 16 and 17 of the Constitution of the Republic, the Basque Provinces are solely responsible for legislation and the direct administration thereof in respect of the following matters:

- (a) (1) The internal constitution of the Provinces, including their electoral legislation, subject to the rules laid down in this statute;  
(2) Demarcation of territorial divisions for administrative purposes;  
(3) Local administration, provided that the powers conferred on the Basque municipalities shall not be subject to greater restrictions than those prescribed in the general laws of the State;  
(4) Statistics with respect to matters expressly declared to be within the jurisdiction of the Basque Provinces;
- (b) (1) Civil legislation in general, including all matters at present regulated by the Provincial Laws (*Derecho foral*), whether written law or customary law; the civil registers. This shall be subject to the limitations laid down in No. 1 of article 15 of the Constitution;  
(2) Administrative legislation in all matters which are assigned by this statute to the Basque Provinces without restrictions of any kind. Legislation respecting the profession and practice of notaries, including the appointment of notaries, subject to the relevant rules applicable in other parts of Spanish territory;
- (c) (1) Forestry, agriculture and livestock, without prejudice to the legislative powers which the State reserves to itself with respect to the minimum basic conditions in matters relating to the protection of national resources and the co-ordination of the national economy;  
(2) Socialisation of natural resources and economic undertakings, in so far as concerns ownership and the powers granted by the State to the regions for the purposes of No. 12 of article 15 of the Constitution.
- (d) (1) Public health and public and private hygiene, subject to the minimum bases fixed by the State;  
(2) Social assistance and charity, both public and private, charitable foundations of all kinds, courts for the guardianship and protection of minors;  
(3) Medicinal mineral waters;
- (e) (1) Official, economic and occupational bodies of all kinds, except those of a social character and excepting the powers accruing to the State in pursuance of article 15 of the Constitution. Food supply, savings, welfare and credit institutions organised by official bodies and other organisations situated within the Basque Provinces, co-operative societies, mutual

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<sup>1</sup>English translation from Spanish text in *Gaceta de Madrid*, 7 Oct. 1936, No. 281, pp. 211-214.

- benefit societies and mutual aid associations, subject in the case of social legislation to the provisions of No. 1 of article 15 of the Constitution ;
- (2) Public and territorial corporative credit institutions, without prejudice to the provisions of No. 12 of article 14 of the Constitution and the provisions of commercial legislation, and, further, any existing State privileges ;
  - (3) Associations and co-operative societies of persons engaged in agriculture and livestock breeding. The agrarian policy and activities ;
  - (4) Establishment of produce and stock exchanges, in conformity with the general rules of the Commercial Code ;
  - (f) (1) Railways, tramways, highways, transportation, cattle tracks, canals, river beds, telephones, ports, air ports, air navigation lines and radio communications, subject to the limits laid down in No. 13 of article 14 and No. 6 of article 15 of the Constitution ;
  - (2) Hydraulic development and electrical installations in the case of waters exclusively within the Basque Provinces or where the power is not carried outside the limits thereof ;
  - (3) Tourist traffic.

4. In accordance with the provisions of article 50 of the Constitution, the Basque Provinces are hereby declared to have power to set up and maintain educational institutions of all kinds and grades, including universities, provided that the direction and methods thereof comply strictly with the rules laid down in article 48 of the Constitution. The State may maintain in operation educational institutions which are already in existence and may set up other new educational institutions in the Basque Provinces if it considers this necessary in the interests of general culture.

Pending the enactment of legislation respecting academic and professional diplomas in conformity with article 49 of the Constitution, a final State examination shall be established in the university (if a university is founded) and in other educational institutions maintained by the autonomous region, in conformity with the rules and requirements prescribed by the Government of the Republic.

The Basque Provinces shall be responsible for services in connection with fine arts, archives, museums, libraries and artistic treasures.

6. The Basque Provinces shall administer the social legislation of the State and shall organise all the services which have been or may hereafter be established by the said legislation. The Government of the Republic shall inspect the administration of the laws and the organisation of the services in order to guarantee the strict observance of the laws in question and of the relevant international treaties.

In connection with the powers conferred by the preceding paragraph the State may appoint at any time such officers as it may consider necessary to supervise the administration of the laws.

At the request of the Government of the Republic the Basque Provinces shall be bound to make good any deficiencies observed in the administration of the said laws.

8. In conformity with article 15 of the Constitution of the Republic, the Basque Provinces shall be responsible for the administration of the legislation of the State with respect to the following matters :

- (1) Matters reserved for legislation by the State under Nos. 1 and 2 of article 15 of the Constitution ; the régime for penitentiaries ;
- (2) Statistics and demographic services ;
- (3) Implementing of official communications and public documents ;
- (4) Weights and measures ; assaying of precious metals ; industrial verification ;
- (5) Mining ;
- (6) Railways, highways, canals, telephones and ports of general interest, without prejudice to the right of the State to take over and police the first mentioned and to the right to operate these services directly which the State may reserve to itself.

- (7) General and social insurance, including management and administration;
- (8) Waters, hunting and river fishing, except in the case of hydraulic development where the waters concerned run outside the autonomous territory;
- (9) The press, associations, public meetings and public entertainments;
- (10) Right of expropriation, always excepting the right of the State to take action on its own account with respect to its special undertakings;
- (11) Socialisation of natural resources and economic undertakings in conformity with No. 12 of article 15 of the Constitution;
- (12) The merchant marine and seamen, subject to the provisions of No. 9 of article 14 of the Constitution and to commercial legislation;
- (13) Civil aviation and broadcasting services, without prejudice to the right of the State to co-ordinate means of communication throughout the country. The State may install its own broadcasting services and shall inspect those which operate under concessions granted by the authorities of the Basque Provinces.

9. *Substantially identical with article 13 of the Statute of the Autonomous Region of Catalonia, p. 142.*

### Canary Islands

Decree-Law concerning the Régime of the Canary Islands<sup>1</sup>

8 May 1928

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<sup>1</sup> Spanish text in *Repertorio de Legislación Española, publicada por la Revista de los Tribunales*, Vol. 51, 1928, p. 139.

## SPITZBERGEN

### Treaty concerning the Archipelago of Spitzbergen<sup>1</sup>

9 February 1920

2. Ships and nationals of all the High Contracting Parties shall enjoy equally the rights of fishing and hunting in the territories specified in article 1 and in their territorial waters.

Norway shall be free to maintain, take or decree suitable measures to ensure the preservation and, if necessary, the re-constitution of the fauna and flora of the said regions, and their territorial waters; it being clearly understood that these measures shall always be applicable equally to the nationals of all the High Contracting Parties without any exemption, privilege or favour whatsoever, direct or indirect to the advantage of any one of them.

Occupiers of land whose rights have been recognised in accordance with the terms of articles 6 and 7 will enjoy the exclusive right of hunting on their own land: (1) in the neighbourhood of their habitations, houses, stores, factories and installations, constructed for the purpose of developing their property, under conditions laid down by the local police regulations; (2) within a radius of 10 kilometres round the headquarters of their place of business or works; and in both cases, subject always to the observance of regulations made by the Norwegian Government in accordance with the conditions laid down in the present article.

3. The nationals of all the High Contracting Parties shall have equal liberty of access and entry for any reason or object whatever to the waters, fjords and ports of the territories specified in article 1; subject to the observance of local laws and regulations, they may carry on there without impediment all maritime, industrial, mining and commercial operations on a footing of absolute equality.

They shall be admitted under the same conditions of equality to the exercise and practice of all maritime, industrial, mining or commercial enterprises both on land and in the territorial waters, and no monopoly shall be established on any account or for any enterprise whatever.

Notwithstanding any rules relating to coasting trade which may be in force in Norway, ships of the High Contracting Parties going to or coming from the territories specified in article 1 shall have the right to put into Norwegian ports on their outward or homeward voyage for the purpose of taking on board or disembarking passengers or cargo going to or coming from the said territories, or for any other purpose.

It is agreed that in every respect and especially with regard to exports, imports and transit traffic, the nationals of all the High Contracting Parties, their ships and goods shall not be subject to any charges or restrictions whatever which are not borne by the nationals, ships or goods which enjoy in Norway the treatment of the most favoured nation; Norwegian nationals, ships or goods being for this purpose assimilated to those of the other High Contracting Parties, and not treated more favourably in any respect.

No charge or restriction shall be imposed on the exportation of any goods to the territories of any of the Contracting Powers other or more onerous than on the exportation of similar goods to the territory of any other Contracting Power (including Norway) or to any other destination.

4. All public wireless telegraphy stations established or to be established by,

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<sup>1</sup> Text from HUDSON: *International Legislation*, Vol. I, 1919-1921, pp. 436-448.

or with the authorisation of, the Norwegian Government within the territories referred to in article 1 shall always be open on a footing of absolute equality to communications from ships of all flags and from nationals of the High Contracting Parties, under the conditions laid down in the Wireless Telegraphy Convention of July 5, 1912, or in the subsequent International Convention which may be concluded to replace it.

Subject to international obligations arising out of a state of war, the owners of landed property shall always be at liberty to establish and use for their own purposes wireless telegraphy installations, which shall be free to communicate on private business with fixed or moving wireless stations, including those on board ships and aircraft.

5. The High Contracting Parties recognise the utility of establishing an international meteorological station in the territories specified in article 1, the organisation of which shall form the subject of a subsequent convention.

Conventions shall also be concluded laying down the conditions under which scientific investigations may be conducted in the said territories.

6. Subject to the provisions of the present article, acquired rights of nationals of the High Contracting Parties shall be recognised.

Claims arising from taking possession or from occupation of land before the signature of the present Treaty shall be dealt with in accordance with the Annex hereto, which will have the same force and effect as the present Treaty.

7. With regard to methods of acquisition, enjoyment and exercise of the right of ownership of property, including mineral rights, in the territories specified in article 1, Norway undertakes to grant to all nationals of the High Contracting Parties treatment based on complete equality and in conformity with the stipulations of the present Treaty.

Expropriation may be resorted to only on grounds of public utility and on payment of proper compensation.

8. Norway undertakes to provide for the territories specified in article 1 mining regulations which, especially from the point of view of imposts, taxes or charges of any kind, and of general or particular labour conditions, shall exclude all privileges, monopolies, or favours for the benefit of the State or of the nationals of any one of the High Contracting Parties, including Norway, and shall guarantee to the paid staff of all categories the remuneration and protection necessary for their physical, moral and intellectual welfare.

Taxes, dues and duties levied shall be devoted exclusively to the said territories and shall not exceed what is required for the object in view.

So far, particularly, as the exportation of minerals is concerned, the Norwegian Government shall have the right to levy an export duty which shall not exceed 1 per cent. of the maximum value of the minerals exported up to 100,000 tons, and beyond that quantity the duty will be proportionately diminished. The value shall be fixed at the end of the navigation season by calculating the average free on board price obtained.

Three months before the date fixed for their coming into force, the draft mining regulations shall be communicated by the Norwegian Government to the other Contracting Powers. If during this period one or more of the said Powers propose to modify these regulations before they are applied, such proposals shall be communicated by the Norwegian Government to the other Contracting Powers in order that they may be submitted to examination and the decision of a Commission composed of one representative of each of the said Powers. This Commission shall meet at the invitation of the Norwegian Government and shall come to a decision within a period of three months from the date of its first meeting. Its decisions shall be taken by a majority.



Norwegian Law regarding the Administration of Spitzbergen<sup>1</sup>

17 July 1925

## CHAPTER I. THE RELATIONSHIP BETWEEN SVALBARD AND NORWAY

2. Norwegian civil and criminal law and the Norwegian legislation regarding the administration of justice shall apply to Svalbard when nothing to the contrary is prescribed.

Other legislative provisions do not apply to Svalbard except when this is specially determined.

3. The laws regarding public servants, remuneration for public services, currency, measures and weights, post and telegraphs, the safety of workers and labour disputes shall apply in respect of Svalbard with such modifications as the King may fix having regard to the local conditions.

4. The King may enact general regulations regarding ecclesiastical, school and poor law matters, public order, expulsion, medical and health conditions, public works and fire brigades, explosives, the safety of shipping and air transport, protection of patents and trade marks, mining, hunting, trapping, fishing and other means of livelihood, preservation of animals, plants, natural formations, land areas and historic relics, and returns for official statistics.

## CHAPTER II. GOVERNMENT AND ADMINISTRATION OF JUSTICE

5. In Svalbard there shall be a "Sysselman" (Governor) appointed by the King.

The Sysselman has the same authority as a "Fylkesman" (chief executive officer). He shall also act as chief of police, notary public and assistant judge of the lower court, so long as there are no special officials in these posts.

8. The following come within the competence of the Sysselman as assistant judge:

(3) Cases of private service or other private labour matters.

10. Appraisements in expropriation cases shall be made by 3 men. Appeal in cases of appraisal is given by 5 appraisers, and the Sysselman shall preside.

If the case is of special importance the King can, on demand from one of the parties, decide that the Sysselman and two appraisers shall undertake the appraisal. In that case the appeal court shall comprise 5 appraisers and be presided over by a judge to be nominated by the King.

13. The mortgage register of Svalbard shall have a separate page for every real estate, mining assignment and piece of Crown territory rented out. Notes about mining assignment on privately owned property shall be made on the page appertaining to that property.

The manner in which properties and assignments are to be noted in the register, and the register and its index kept, is to be more precisely prescribed by the King.

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<sup>1</sup> English translation from *British and Foreign State Papers*, Vol. 122, 1925, Part II, pp. 986-990; for Norwegian text, see *Norsk Lovtidende*, No. 33, 1925.

## CHAPTER IV. SPECIAL REGULATIONS REGARDING PROPERTY

22. No one can acquire a prescription on ownership rights or usufruct to Crown land.

Crown land is all the territory which has not been allotted to anyone as property under the Spitzbergen Treaty.

23. To ground other than Crown land the nationals of the States which are parties to the Spitzbergen Treaty can acquire property rights or usufruct without permission. The same applies in the case of legally constituted companies which have their board of management in those States.

The registrar of real estate can demand evidence from the competent authority in the country of domicile that a foreigner or a foreign company fulfils these conditions.

24. If the owner or user of real estate in Svalbard does not live or have a permanent residence in Norway or in Svalbard, he shall have an authorised agent living in the Kingdom with full authority to deal with anything pertaining to the property. The same shall apply when the owner or user is a company with its board of directors abroad.

The document giving authority, together with the name and position of the agent, shall be registered.

If no such authority is given or registered, the judge of the lower court can appoint an authorised agent on the demand of an interested party. The appointment shall be registered and remain effective until the owner or user himself registers authority.

25. The King can issue regulations as to how the boundaries of private property shall be marked.

When real estate is divided, the Sysselman shall appoint 2 men to draw up a document of partition with a detailed explanation regarding the part transferred. The title deed to the part transferred must not be registered before the document of partition.

26. The landowner has the sole right to hunt and trap on his property:

(a) In the vicinity of dwellings, houses, stores, workshops and other buildings serving the purpose of exploiting the property.

(b) Within 10 kilometres from the headquarters for operating or exploiting the property.

The landowner has the sole right to hunt, trap and collect eggs and down in such egg and down areas as have been preserved with the King's permission. Such preservation shall be published in "Norsk Kunngjølsestidende", and the area shall be marked in such manner as is prescribed by the King.

27. Outside the areas mentioned in article 26 hunters, trappers, fishermen and egg and down collectors have the right to maintain huts and other establishments which they need for their sojourn and work when such is not to the detriment of the landowner.

Persons wishing to make scientific investigations have the same rights outside the areas mentioned in article 26 (a).

Disputes as to the application of these regulations shall be decided by the Sysselman with final effect.

28. The King can allow the expropriation of the ownership or usufruct of real estate in other cases than those authorised by the mining law when:

(1) The Government or private parties wish to build a harbour, quay, dock, road, transport appliance, water-pipe, power transmitter, telegraph or telephone.

(2) When the Government otherwise needs ground for public or scientific purposes.

The owner and others possessing legal rights shall have liberty to state their case before the King gives permission.

#### CHAPTER V. MISCELLANEOUS PROVISIONS

29. The King can provide that persons and companies from States not parties to the Spitzbergen Treaty shall be able to acquire mining rights, the ownership of property or usufruct of real estate in Svalbard wholly or in part on the same conditions as if they belonged to the signatory States.

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### SWEDEN

#### Constitution (Form of Government) of the Kingdom of Sweden<sup>1</sup>

*6 June 1809, as Amended to 30 June 1933*

16. The King shall maintain and further justice and truth, and prevent and forbid iniquity and injustice; he shall not deprive anyone or allow anyone to be deprived of life, honour, personal liberty or well-being, without legal trial and sentence; he shall not deprive anyone or permit anyone to be deprived of any real or personal property without trial and judgment in accordance with the provisions of Swedish law and statutes; he shall not disturb or allow to be disturbed the peace of any person in his home; he shall not banish any person from one place to another; he shall not constrain or allow to be constrained the conscience of any person, but shall protect everyone in the free exercise of his religion, provided he does not thereby disturb public order or occasion general offence. The King shall cause everyone to be tried by the court to the jurisdiction of which he is properly subject.

28. The King in Council of State shall have power to appoint and promote native Swedes to all offices and posts, high and low, for which the King's commissions are granted; the proper authority shall, however, first submit nominations when such a practice has heretofore been customary. The King may likewise, after having consulted the proper authorities or upon their nomination, appoint and promote foreigners of distinguished merit, professing the pure evangelical faith, to professorships in the universities, excepting, however, to the theological teaching staffs; to professorships or other positions in other institutions for science, manual training or fine arts, as well as to medical appointments. The King may likewise employ foreigners of unusual ability in the military service, but not as commanders of fortresses. Foreigners may also be appointed as consuls, when there is no remuneration attached to the appointment.

In pursuance of rules approved by the King and the Riksdag, women may be appointed and promoted to the posts and services set out above, but no woman may be appointed to the priestly office, unless otherwise prescribed in accordance with article 87, paragraph (2).

Only persons professing the pure evangelical faith may be appointed to the priestly office or to other offices involving the obligation to give instruction in the

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<sup>1</sup> English translation from *British and Foreign State Papers*, Vol. 132, 1930, Part I, p. 887-914; for Swedish text, see *Svensk Författningssamling*, No. 439, 30 June 1933.

Christian religion or in theology. To all other offices and positions, excepting membership of the Council of State as provided by article 4, persons belonging to another Christian faith or adherents of the Mosaic belief may be appointed; no person not belonging to the pure evangelical faith shall, however, take part, as judge or incumbent of any other office, in the discussion or decision of questions relating to divine worship, to religious instruction, or to appointments within the Swedish Church.

In all promotions the King shall take into consideration only the merit and ability of the candidates, but not their birth. Each head of a department shall submit and deal with all business relative to the promotion, appointment, leave of absence and discharge of all officials and employees in the offices and establishments under the department.

57. The ancient right of the Swedish nation to tax themselves shall be exercised by the Riksdag alone.

The manner in which separate communities shall tax themselves for their own needs shall be determined by communal laws to be enacted by the King and the Riksdag jointly.

58. At each ordinary session of the Riksdag the King shall cause to be presented to it a statement of the financial condition of the State administration in all its branches, both income and expenses, assets and liabilities. Should the country receive any revenue because of treaties with foreign powers, it shall be accounted for in the same manner.

60. The customs and excise taxes, postal charges, stamp taxes, taxes on domestic distillation, and all such other taxes as each Riksdag may vote shall be reckoned as grants. No general tax of whatever name or character may be increased without the consent of the Riksdag, the duties on imported and exported grain alone excepted; nor shall the King lease the revenues of the State, or establish any monopoly for the benefit of himself and the Crown or of private individuals and corporations.

66. The Office of the National Debt shall remain under the direction, control and administration of the Riksdag; and, as the Riksdag is responsible for the public debt which that Office administers, it shall, after the condition and needs of that Office have been duly examined, provide by special appropriation the funds which are found to be indispensable for the payment of the interest and capital of this debt, in order that the credit of the country may be maintained and preserved.

68. The funds belonging to or appropriated for the Office of the National Debt may not, under any pretext or condition, be withdrawn or applied to other purposes than those specified by the Riksdag. All orders in conflict with this provision shall be void.

72. The Riksbank shall remain under the guarantee of the Riksdag, and shall be administered by the Commissioners appointed for that purpose, in accordance with a law enacted by the King and the Riksdag jointly.

The Riksbank Commissioners shall be seven in number, of whom the King shall appoint one for periods of three years and also a substitute; the other six Commissioners and three substitutes shall be chosen by the Riksdag for the term and in the manner prescribed by the Riksdag Law. The regular member appointed by the King shall preside over the Commissioners, but shall perform no other duties in the administration of the Bank. Any Commissioner to whom the Riksdag refuses relief from responsibility shall retire from his position. The appointment by the King of a Commissioner or substitute may be revoked when His Majesty deems that course advisable.

The Commissioners shall elect from their number a first deputy to be Governor of the Riksbank and, also from or outside their number, a substitute to take the Governor's place with full power and responsibility in the event of his being precluded from attendance.

The Riksbank alone shall have the right to issue bank notes which may circulate as money in the Kingdom. These notes shall be redeemed by the Bank, upon demand, in gold at their face value; with the proviso that when, by reason of war, the danger of war or a severe money crisis it is considered absolutely necessary to suspend such redemption, the King and the Riksdag jointly or, if the Riksdag is not sitting, the King at the initiative of the Commissioners of the Riksbank and after consultation with the Commissioners of the National Debt Office, shall permit such suspension for a certain time. Such permission when given by the King between sessions of the Riksdag, if not confirmed by the Riksdag within 20 days from the beginning of its next session, shall after the lapse of the said period cease to have effect.

73. No fresh taxation, levy of troops, money or goods shall hereafter be ordered, collected or demanded without the free will and consent of the Riksdag, in the manner provided above.

74. From the day when, by decision of the King in Council of State after summoning the Riksdag to assemble, the forces of the Kingdom or part thereof are placed upon a war footing, either for the preservation of the neutrality of the Kingdom when, in a war between foreign powers, such neutrality is threatened or violated by any of the belligerents or to ward off an apprehended or actual attack, until the return to a peace footing, the King shall have power, in the forms and manner and under the conditions prescribed by special law to be enacted by the King and the Riksdag jointly, and with the obligation that the State shall indemnify, to make requisitions upon communes or private individuals for such necessities and services as may be available locally and are required to meet such indispensable needs of the army as cannot be otherwise met with sufficient expedition.

75. The annual table of market rates shall be prepared by persons chosen in the manner specially provided by the Riksdag; such table shall be followed until its modification is sought and obtained in the regular manner.

76. The King cannot, without the consent of the Riksdag, contract loans at home or abroad or burden the Kingdom with fresh debts.

77. The King may not, without the consent of the Riksdag, alienate from the Crown by sale, mortgage, grant, or otherwise royal demesnes and farms with the houses and appurtenances thereof, royal forests, parks and preserves, the royal grazing meadows and the salmon or other fisheries belonging to the Crown, or other Crown property. Such property shall be administered in accordance with principles established by the Riksdag; but persons and communities who, according to the law hitherto in force, are now in possession and enjoyment of such Crown property may retain their legal rights therein. Cultivated or cultivable land in the royal forests may be sold to private individuals and taxed in accordance with laws now in force or hereafter to be enacted.

78. No part of the Kingdom may be severed therefrom by sale, mortgage, grant or otherwise.

79. (2) Nor shall any change be made in the standard of the money of the Kingdom, either by way of increase or decrease, without the consent of the Riksdag; the King's right to coin money shall, however, remain undisturbed.

84. The fundamental laws shall be applied literally in each particular case.

85. The following shall be considered fundamental laws: the present Constitution, the Riksdag Law, the Succession Law, and the law relating to the freedom of the press, which shall be adopted by the King and the Riksdag jointly in accordance with the principles laid down in the present constitution.

86. By "freedom of the press" is understood the right of every Swede to publish his writings without any previous interference on the part of public authorities; that of only being prosecuted afterwards before a regular court on account of the contents of his publication, and that of not being punished unless such contents are in conflict with a law enacted to preserve the public peace,

without interfering with public enlightenment. All proceedings and minutes of whatever character, except the minutes of the Council of State and those of the King relating to military command, may be published without restriction. The minutes and proceedings of the Riksbank and of the Office of the National Debt, concerning matters which should be kept secret, may not be published.

108. Every fourth year the Riksdag in ordinary session shall, in the manner prescribed by the Riksdag law, appoint six persons of known intelligence and erudition who, together with the Procurator for Judicial Affairs as president, shall watch over the liberty of the press. These Commissioners, of whom two in addition to the Procurator for Judicial Affairs shall be lawyers, shall have the following duty: In case an author or printer, before printing, submits a manuscript to them and asks their advice as to whether it would be subject to an action under the law relating to the freedom of the press, the Procurator for Judicial Affairs and not fewer than three members of the Committee, of whom one shall be a lawyer, shall give such opinion in writing. If they declare that the manuscript may be printed, both author and publisher shall be free from all responsibility, which shall fall on the Commissioners.

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## SWITZERLAND

### Constitution of the Swiss Confederation<sup>1</sup>

*29 May 1874, as Modified up to June 1931*

#### CHAPTER I. GENERAL PROVISIONS

2. The object of the Confederation is to ensure the independence of the country against the foreigner, to maintain tranquillity and order within its borders, to protect the liberties and rights of the confederates, and to promote their common prosperity.

3. The Cantons are sovereign insofar as their sovereignty has not been limited by the Federal Constitution and, as such, they exercise all the rights which have not been delegated to the Federal power.

4. All Swiss are equal before the law. In Switzerland there are no subjects, nor privileges of rank, birth, person or family.

5. The Confederation guarantees to the Cantons their territory, their sovereignty within the limits fixed by article 3, their Constitutions, the liberty and rights of their people, the constitutional rights of the citizens, and the rights and powers conferred by the people on the authorities.

18. Every male Swiss is liable to perform military service.

Soldiers who lose their lives or suffer permanent injury to their health in the Federal service are entitled to assistance from the Confederation, for themselves or their families, if in need.

Every soldier shall receive free of charge his first outfit of arms, equipment and clothing. The arms shall remain in the possession of the soldier upon conditions to be determined by Federal legislation.

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<sup>1</sup> English translation from *British and Foreign State Papers*, Vol. 131, 1929, Part II, pp. 713-740; for French text, see DARESTE: *Les constitutions modernes*, 4th edition, Vol. II, 1929, pp. 544-584.

22. In return for reasonable compensation, the Confederation has the right to make use of or to acquire drill grounds and buildings used for military purposes, together with their accessories, in the Cantons.

The conditions governing compensation shall be regulated by Federal legislation.

23. The Confederation may order the construction at its own expense of public works of utility to Switzerland or a considerable part of the country, or may encourage the same by granting subsidies.

For this purpose it may order expropriation on payment of just compensation. Federal legislation will make further provision in this respect.

The Federal Assembly may prohibit public works which would endanger the military interests of the Confederation.

23a. The Confederation shall maintain the corn reserves which are necessary for ensuring the provisioning of the country. It may oblige millers to store corn and to acquire reserve stocks in order to facilitate the renewal of supplies.

The Confederation shall encourage the cultivation of corn in the country, it shall facilitate the selection and acquisition of native seed of good quality, and shall grant assistance to producers cultivating corn for their own needs, special consideration being given to mountainous regions. It shall purchase native corn of good quality fit for grinding at a price which allows the cultivation of the same. Millers may be compelled to buy this corn at its market value.

The Confederation shall ensure the maintenance of the national milling industry; it shall likewise safeguard the interests of consumers of flour and bread. It shall supervise, within the limits of its powers, trade in and the prices of corn, bread-flour and bread. The Confederation shall take the necessary measures for regulating the importation of bread-flour; it may reserve to itself the exclusive right of importing this product. In case of need, the Confederation shall grant the mills facilities to enable them to reduce costs of transport to the interior of the country. It shall take, in favour of mountainous districts, appropriate measures to equalise the prices of flour.

The statistical duty levied on all goods crossing the Swiss frontier shall be increased. The yield from this duty will contribute to cover the expenditure arising from the provisioning of the country with corn.

24. The Confederation has the right of supreme supervision of the policing of embankments and forests.

It will assist in the control and embanking of mountain streams and the reafforestation of the districts in which they rise. It will decree the measures necessary for ensuring the maintenance of such works and the preservation of the existing forests.

24a. The utilisation of water power is placed under the supreme control of the Confederation.

Federal legislation will enact the general provisions necessary for safeguarding the public interest and ensuring the rational utilisation of water power, taking into account, as far as possible, the interests of internal navigation.

Subject to such provisions, the Canton shall regulate the utilisation of water power.

Nevertheless, when a watercourse, the utilisation of which is sought for the production of hydraulic power, is under the sovereignty of several Cantons, and these have failed to come to any agreement as to granting a concession, the Confederation may grant the concession. It shall likewise have power to do so, after hearing the views of the Cantons concerned, in respect of watercourses forming the frontier of the country.

Fees and royalties payable in respect of the utilisation of water power are the property of the Cantons or of those entitled to them under Cantonal law.

Dues and royalties payable in respect of concessions granted by the Confederation shall be determined by the latter after hearing the views of the Cantons

concerned and having due regard to their legislation. Dues and royalties payable in respect of other concessions shall be fixed by the Cantons, within the limitations imposed by Federal legislation.

The diversion abroad of energy produced from water-power may not take place without the consent of the Confederation.

Upon the coming into force of the present article all new water-power concessions shall be subject to future Federal legislation.

The Confederation has the right to legislate upon the transmission and distribution of electrical energy.

24*b*. Legislation affecting navigation is within the province of the Confederation.

25. The Confederation has the right to pass laws for the regulation of fishing and hunting, particularly with a view to the preservation of large game in the mountains and the protection of birds useful to agriculture and sylviculture.

25*a*. The bleeding of slaughter animals which have not been previously stunned is expressly forbidden; this provision applies to all methods of slaughter and to all kinds of live-stock.

26. Legislation on the construction and working of railways is within the province of the Confederation.

27. The Confederation has the right to establish, in addition to the existing Federal Polytechnic School, a Federal university and other institutions for higher education, or to subsidise establishments of this kind.

The Cantons shall make provision for elementary education, which must be adequate, and be exclusively under the control of the civil authorities. It is compulsory and, in the public schools, free.

Public schools must be open for the attendance of members of all religious faiths without their conscience or belief having to suffer in any fashion.

The Confederation will take the necessary measures against Cantons which fail to fulfil these obligations.

27*a*. Subvention shall be granted to the Cantons to aid them in carrying out their obligations in respect of elementary education.

Effect will be given to this provision by legislation.

The organisation, direction and supervision of elementary schools remain within the competence of the Cantons, subject to the provisions of article 27 of the Federal Constitution.

28. Customs matters are the concern of the Confederation, which may impose import and export duties.

29. The collection of the Federal customs shall be regulated in accordance with the following principles:

(1) Import taxes:

(*a*) Materials necessary to the industry and agriculture of the country shall be taxed as lightly as possible.

(*b*) The same principle shall apply to commodities necessary to life.

(*c*) Articles of luxury shall be subjected to the heaviest taxes.

Except where circumstances render it impossible, these principles must also be observed in the conclusion of commercial treaties with foreign countries.

(2) Export taxes shall be as moderate as possible.

(3) Legislation on customs will contain suitable provisions for guaranteeing frontier and market trading.

The foregoing provisions do not preclude the Confederation from taking exceptional measures temporarily to meet abnormal circumstances.

30. Revenue from customs duties belongs to the Confederation.

The indemnities hitherto paid to the Cantons in respect of the redemption of customs, road and bridge tolls, local dues and similar revenues are abolished.



The Cantons of Uri, Grisons, Ticino and Valais shall receive exceptionally, on account of their international Alpine highways, a yearly allowance fixed as follows:

	Francs
Uri . . . . .	160,000
Grisons . . . . .	400,000
Ticino . . . . .	400,000
Valais . . . . .	100,000

31. Freedom of commerce and industry is guaranteed throughout the Confederation.

The following are excepted:

(a) The monopoly of salt and gunpowder, Federal customs, import duties on wines and other spirituous liquors, together with the other taxes on articles of consumption formally recognised by the Confederation in accordance with article 32.

(b) The manufacture, importation, purification, sale and imposition of distilled beverages, in conformity with articles 32a and 32b.

(c) All matters affecting public houses and trade in spirituous liquors, in conformity with article 32c.

(d) Sanitary police measures for the purpose of combating diseases which are infectious, widespread and exceptionally dangerous to human beings and animals.

(e) Regulations as to the exercise of commercial and industrial occupations, taxes in connection therewith, and the control of roads. Such regulations may not contain any provisions contravening the principle of freedom of commerce and industry.

32. The Cantons are authorised to collect the import duties on wines and other spirituous liquors referred to in article 31, paragraph (a) subject to the following restrictions:

(a) The collection of these import duties must not burden transit in any way; it must inconvenience as little as possible commerce, which may not be subjected to any other tax.

(b) If commodities imported for consumption are re-exported from the Canton, the import duties paid shall be refunded without further charge.

(c) Products of Swiss origin shall be taxed at a lower rate than those of foreign origin.

(d) The present import duties on wines and other spirituous liquors of Swiss origin may not be increased by Cantons where such duties exist, nor may such duties be imposed by Cantons which do not collect them at the present time.

(e) Cantonal laws and decrees in regard to the collection of import duties must, before being put into operation, be submitted for approval to the Federal authorities, in order that they may, if necessary, cause the foregoing provisions to be observed.

All import duties at present collected by the Cantons, together with similar duties collected by the communes, must be abolished, without compensation, by the end of the year 1890.

32a. The Confederation has the right to legislate regarding the manufacture, importation, purification, sale and taxation of distilled beverages.

Such legislation shall conduce to diminish the consumption and consequently the importation and production of spirits. It shall encourage the production of table fruit and the use of native distillable matters for food or fodder. The Confederation will reduce the number of distilling plants by means of private purchases.

The concession for the industrial production of distilled beverages is granted to co-operative societies and other private undertakings. The concessions granted

must permit of the utilisation of the waste matter and residues of fruit, vine and sugar-beet cultivation and the surplus crops of fruit and potatoes, so far as these raw materials are incapable of being rationally used otherwise than in distillation.

The non-industrial production of spirits from fruit and fruit waste, of cider, wine, grape and wine dregs, gentian roots and other similar materials, is permitted in domestic distilleries already existing or in itinerant distilleries, provided that such materials originate exclusively from the individual crop of the producer or have been gathered in a wild state in the country. The spirit thus obtained, which is necessary in the household or agricultural business of the producer, is exempt from taxation. Domestic distilleries which are still in existence after the expiration of a period of 15 years dating from the acceptance of the present article must, in order to continue working, apply for a concession, which will be granted without payment on conditions to be fixed by law.

Specialities obtained by the distillation of kernel fruit, wine, grape and wine dregs, gentian roots and other similar materials are subjected to the payment of a tax. The producer must, however, be able to get a fair price for his raw materials of native origin.

With the exception of the quantities necessary to the producer, which are exempt from taxation, and specialities, spirits manufactured in the country shall be handed over to the Confederation. The latter shall take them over at fair prices.

The receipts accruing from duties upon the sale and retail trade within the limits of the Cantonal territory remain the property of the Cantons. Licences for inter-Cantonal and international trade are issued by the Confederation; the receipts therefrom shall be distributed among the Cantons in proportion to their populations ordinarily resident.

Half of the net receipts accruing to the Confederation from the taxation of distilled beverages shall be distributed among the Cantons in proportion to their populations ordinarily resident; each Canton is bound to expend at least 10 per cent. of its share in combating the causes and effects of alcoholism. The other half of the receipts remains the property of the Confederation; it shall be set apart for old-age and dependants' insurance, and shall be paid into the funds established for the same until the time such insurance is introduced.

32*b*. The manufacture, importation, transport, sale and keeping for sale of the liquor called absinthe are prohibited throughout the Confederation. This prohibition extends to all beverages, by whatever name called, which constitute imitations of absinthe. The transport in transit of absinthe and its use for pharmaceutical purposes are excepted.

The foregoing prohibition will come into operation two years after its adoption, Federal legislation will enact the necessary provisions consequent on this prohibition.

The Confederation has the right to impose by law the same prohibition on all other beverages containing absinthe which might constitute a public danger.

32*c*. Cantons have the right to subject, by means of legislation, the exercise of the calling of publican and the retail trade in spirituous beverages to the restrictions required by the public welfare. Trade in quantities of less than 2 litres is deemed to be retail trade in non-distilled spirituous beverages.

Trade in non-distilled spirituous beverages in quantities from 2 to 10 litres may, within the limits of article 31, paragraph (*e*), and by means of legislation, be made conditional by the Cantons on the payment of a small fee and subjected to the supervision of the authorities.

The sale of non-distilled spirituous beverages may not be subjected by the Cantons to special taxation other than licence duties.

Juridical persons must not be treated less favourably than physical persons. Producers of wine and cider may, without permission and without paying any duty, sell the product of their own crop in quantities of 2 litres or over.

The Confederation has the right to legislate on trade in non-distilled spirit-

uous beverages in quantities of 2 litres or over. The regulations which it may issue must not contain anything which contravenes the principle of commerce and industry.

Colportage and other means of itinerant sale of spirituous beverages are prohibited.

33. The Cantons may require evidence of capacity from persons desiring to practise the liberal professions.

Federal legislation shall make provision that such persons may be able to obtain certificates of qualification valid throughout the Confederation.

34. The Confederation has the right to make uniform regulations concerning child labour in factories, the hours of work of adults therein, and the protection of workers in unhealthy and dangerous industries.

The operations of emigration agencies and insurance undertakings not established by the State are subject to Federal supervision and legislation.

34a. The Confederation will introduce, by means of legislation, accident and sickness insurance, regard being had to assistance funds in existence.

It may declare participation in such insurance to be compulsory in general or as regards certain specified categories of citizens.

34b. The Confederation has the right to make uniform regulations concerning arts and crafts.

34c. The Confederation shall, by means of legislation, institute a system of old-age and surviving dependants' insurance; it may later introduce invalidity insurance.

It may declare such insurance to be obligatory in general or as regards certain categories of citizens.

The insurance plan shall be carried into effect with the co-operation of the Cantons; application may be made to the public or private insurance societies for their collaboration.

The first two branches of insurance shall be introduced simultaneously.

The financial contributions of the Confederation and the Cantons shall not exceed, altogether, one-half of the total sum necessary for the insurance.

From 1 January 1926, the Confederation shall set apart for old-age and surviving dependants' insurance the total yield of the tobacco tax.

The Confederation's share of the net receipts accruing from the taxation of spirits shall be set apart for old-age and surviving dependant's insurance.

35. It is forbidden to open and run gaming houses.

The Cantonal Governments may, on certain conditions dictated by public interest, permit gambling for pleasure as in vogue in kursaals up to the spring of 1925, provided that the competent authorities are of opinion that such play is necessary for the maintenance or development of the tourist industry and that its organisation is assured by an enterprise running a kursaal for that purpose. The Cantons may likewise forbid such play.

An ordinance of the Federal Council shall determine the conditions dictated by public interest.

Cantonal authorisations shall be submitted to the Federal Council for approval.

One-quarter of the gross receipts from the play shall be paid over to the Confederation, which shall set the same apart, without taking into account its own contributions, for victims of natural catastrophes and works of public utility.

The Confederation may also take the necessary measures in regard to lotteries.

36. Throughout Switzerland posts and telegraphs are within the domain of the Confederation.

The revenue from posts and telegraphs belongs to the Federal Treasury.

The charges shall be fixed according to the same principles and as equitably as possible in every part of Switzerland.

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37. The Confederation exercises supreme control over the roads and bridges in the maintenance of which it is concerned.

The sums due to the Cantons specified in article 30 on account of their international Alpine highways shall be withheld by the Federal authorities if these highways are not properly maintained by the Cantons.

37a. The Confederation may make regulations concerning motor cars and cycles.

The Cantons retain the right to restrict or prohibit motor and cycle traffic. The Confederation may, nevertheless, declare open or partially open to traffic certain highways necessary for through traffic. The use of highways for the business of the Confederation remains reserved.

37b. Legislation concerning aerial navigation is within the sphere of the Confederation.

38. The Confederation shall exercise all the rights comprised in the coinage monopoly.

It has the sole right of coining money.

It shall determine the monetary system and may, if necessary, regulate the rate of exchange of foreign money.

39. The right of issuing bank notes and any other fiduciary money is vested exclusively in the Confederation.

The Confederation may exercise its monopoly of note issue through a State bank under a special administration, or may concede its exercise, subject to the right of redemption, to a central joint-stock bank to be established, which shall be administered with the assistance and under the control of the Confederation.

The principal function of the bank holding the monopoly shall be to regulate the money market in Switzerland and to facilitate payments.

At least two-thirds of the net profits of the bank, after payment of interest or reasonable dividend on the endowment or share capital, and deduction of payments to the reserve funds, shall go to the Cantons.

The bank and its branches shall be exempt from all Cantonal taxation.

The compulsory acceptance of bank notes and any other form of fiduciary money may only be decreed by the Confederation in case of necessity in time of war.

Federal legislation shall make provision as to the seat of the bank, its basis and organisation, and the carrying into effect of this article in general.

40. The system of weights and measures shall be determined by the Confederation.

The laws relating thereto shall be carried out by the Cantons under Federal supervision.

41. The manufacture and sale of gunpowder throughout Switzerland are reserved exclusively to the Confederation.

41a. The Confederation may charge stamp duties upon deeds, receipts for insurance premiums, bills of exchange and similar instruments, documents in use in transport and other documents relating to commercial operations; such duties may not be imposed on documents concerning transactions in landed property and mortgages. The Cantons may not subject to any stamp or registration duty documents which are liable to Federal stamp duty or which have been exempted therefrom by the Confederation.

One-fifth of the net yield of the stamp duties shall be paid to the Cantons.

The carrying into effect of these provisions shall be regulated by law.

48. A Federal law shall make the necessary provisions as to the expenses of the illness and burial of poor citizens of one Canton who fall ill or die in another.

49. Liberty of conscience and belief is inviolable.

The exercise of civil or political rights may not be limited by ecclesiastical or religious requirements or conditions of any kind whatsoever.

No person may secure exemption, on the ground of religious opinion, from the fulfilment of any civic obligation.

53. . . . .

The control of burial-places is vested in the civil authorities, which must provide that every deceased person may receive decent burial.

54. The right to marry is placed under the protection of the Confederation.

No impediment to marriage may be based upon grounds of religious belief, the poverty of either party, their conduct or any other considerations whatever of a police nature.

. . . . .

Children born before marriage are legitimised by the subsequent marriage of their parents.

. . . . .

55. The liberty of the press is guaranteed.

The Cantons may, nevertheless, enact measures necessary for the repression of abuses; such laws must be submitted to the Federal Council for approval.

The Confederation may also prescribe penalties in order to suppress abuses directed against itself or its authorities.

56. Citizens have the right to form associations, provided that the objects and methods of such associations are not unlawful or dangerous to the State. Cantonal laws will make the necessary provisions for the prevention of abuses.

57. The right of petition is guaranteed.

59. Suits for personal claims against a solvent debtor domiciled in Switzerland must be brought before the judge of his place of domicile; consequently the property of such a person may not be seized or sequestered outside the Canton in which he is domiciled by reason of personal claims.

These provisions are, in respect of foreigners, without prejudice to the provisions of international treaties.

Imprisonment for debt is abolished.

60. Every Canton is bound to accord to citizens of the other confederated States the same treatment as to its own citizens in regard to legislation and all that concerns judicial proceedings.

65. Sentence of death may not be pronounced for any political offence.

Corporal punishment is forbidden.

69. The Confederation may take legislative measures to deal with infections, widespread and exceptionally dangerous diseases of human beings and animals.

69a. The Confederation has the right to legislate regarding trade in:

(a) Foodstuffs.

(b) Other household commodities and articles of general use, in so far as they may be prejudicial to health or life.

Laws passed in such spheres shall be executed by the Cantons under the supervision and with the financial assistance of the Confederation.

The control of importation at the national frontiers is vested in the Confederation.

69b. The Confederation has the right to legislate regarding the entry, exit, residence and establishment of foreigners.

The Cantons decide, in accordance with Federal law, regarding residence and establishment. The Confederation has, however, the right to give rulings in the last resort regarding:

(a) Permission granted by Cantons for residence over prolonged periods and for establishment, as also cases in which indulgent treatment is given.

(b) The violation of establishment treaties.

(c) Cantonal expulsions producing effects in Federal territory.

(d) Refusals to grant asylum.

70. The Confederation has power to expel from its territory foreigners who compromise the internal or external security of Switzerland.

### Federal Law concerning the Accession of Switzerland to the League of Nations<sup>1</sup>

*Adopted 5 March 1920 and Approved by Referendum  
16 May 1920*

1. Switzerland accedes to the Covenant of the League of Nations on 28 April - 28 June 1919.

The provisions of the Federal Constitution concerning the promulgation of Federal laws are applicable to the ratification of amendments to the said Covenant and to the approval of conventions of every description relating to the League of Nations.

Decisions relating to the denunciation of the Covenant or to withdrawal from the League of Nations must be submitted to the vote of the people and the Cantons.

Article 121 of the Federal Constitution concerning the popular initiative is also applicable to decisions concerning the denunciation of the Covenant or withdrawal from the League.

## CANTONS OF SWITZERLAND

### Aargau

Constitution of 7 June 1885, as Amended to 31 December 1937<sup>2</sup>

17-22. *Declaration of rights, including provision concerning free exercise of commerce and industry within the limits set by the Federal Constitution (21).*  
63-66. *Education.*

73. *Progressive rates of taxation.*

82. *Public assistance.*

83. Compulsory penal labour institutions shall be set up with agricultural and industrial establishments connected therewith in such a manner that the inmates may earn their living as far as possible.

84. *Public health.*

(*Last paragraph*). The state recognises the principle of Sunday rest and shall enact provisions to protect workers against excessive work harmful to health.

85. *Hospitals and other provision for the care of the sick.*

(*Last paragraph*). The State shall promote measures for the care of the sick and may declare sickness insurance compulsory for particular classes of the population.

86. The State shall promote insurance, in particular insurance against loss in agriculture. . .

<sup>1</sup> English translation from French text in *Feuille fédérale de la Confédération Suisse*, Year 72, Vol. III, Berne, 1920, pp. 827-828.

<sup>2</sup> For German text, see *Sammlung der Bundes- und Kantonsverfassungen, Recueil des constitutions fédérales et cantonales*, 5th edition, 1937, pp. 931-958.

88. For the purpose of improving and promoting agriculture, the State shall subsidise agricultural education and experiments . . . and shall compile comprehensive agricultural statistics.

91. In order to increase the productive capacity of the population, the State shall promote and subsidise artistic and industrial exhibitions, educational institutions and training courses.

It shall provide for the compilation of comprehensive industrial statistics.

It shall encourage efforts for the introduction of new industries.

An Industrial Code shall be issued to lay down detailed provisions respecting the exercise of commerce and industry with particular reference to apprenticeship and public contracts.

92. The State shall promote and subsidise agricultural and industrial co-operative societies which contribute to the development of the national economy. Special facilities may be granted by law to associations of handicraft workers.

94. *Cantonal bank.*

## Appenzell

### Inner Rhodes

Constitution of 24 November 1872, as Amended to 31 December 1937<sup>1</sup>

2-7. *Declaration of rights, including provisions concerning free exercise of commerce, industry and transport (2) and the right to establish arbitration courts (6).*

10. *Public assistance.*

11. *Education.*

### Outer Rhodes

Constitution of 26 April 1908, as Amended to 31 December 1937<sup>2</sup>

5-17. *Declaration of rights, including provision concerning free exercise of commerce and industry subject to the restrictions set by the Federal Constitution (15).*

25. *Public assistance.*

27-28. *Education.*

30. It is the duty of the State by means of legislation and financial subsidies to promote the development of:

1. Agriculture, forestry, commerce, industry, handicrafts and means of communication (in particular railways and tramways);
2. Public health and the care of the sick;
3. Old-age and invalidity assistance;
4. Protection of workers, in particular women and children; public employment exchanges;
5. Co-operative societies in the public interest;
6. Other fields of public welfare.

33. Sundays and legal holidays shall be deemed to be public rest days.

Detailed provisions shall be laid down by law.

37. In the event of strikes or disputes which may lead to strikes, the Exe-

<sup>1</sup> *Ibid.*, pp. 814-826.

<sup>2</sup> *Ibid.*, pp. 776-798.

cutive Council shall institute conciliation proceedings. It shall be responsible for the conduct of these proceedings or shall appoint a special conciliation office.

58. *Provision for institution of industrial arbitration courts.*

### Basle Country

Constitution of 4 April 1892, as Amended to 31 December 1937<sup>1</sup>

4-9. *Declaration of rights.*

35. *Education.*

37. *Public assistance.*

38. The Canton shall protect and promote the interests of commerce, industry and handicrafts.

39. Agriculture shall be encouraged as much as possible, in particular by the granting of subsidies for agricultural education . . .

Associations and co-operative societies for above purposes shall be subsidised by the State.

The State shall subsidise and promote insurance.

46. *Progressive rates of taxation.*

### Basle Town

Constitution of 2 February 1890, as Amended to 31 December 1937<sup>2</sup>

7-10. *Declaration of rights.*

11. The State shall promote the well-being of the people and the development of their productive capacity by all means in its power.

12-15. *Education.*

16. *Public assistance.*

17. *Voluntary old-age assistance to be promoted and encouraged by the State.*

50. *Provision for election of industrial arbitration courts.*

### Berne

Constitution of 26 April 1893, as Amended to 31 December 1937<sup>3</sup>

72-92. *Declaration of rights, including provisions concerning free exercise of agriculture, commerce and industry subject to restrictions introduced by legislation within limits set by Federal Constitution (81), education (87-88), and public assistance (91).*

82. The State recognises the principle of weekly rest and shall enact provisions to prevent anyone being required to do excessive work injurious to health.

<sup>1</sup> For German text, see *Sammlung der Bundes- und Kantonsverfassungen, Recueil des constitutions fédérales et cantonales*, 5th edition, 1937, pp. 690-702.

<sup>2</sup> *Ibid.*, pp. 714-728.

<sup>3</sup> *Ibid.*, pp. 276-299; for French text, see *ibid.*, pp. 318-339.



## Fribourg

Constitution of 7 May 1857, as Amended to 31 December 1937<sup>1</sup>

1-16. *Declaration of rights, including provisions regarding free exercise of commerce and industry subject to the Federal Constitution and legislative provisions (11) and progressive rates of taxation (15).*

17-20. *Education.*

## Geneva

Constitution of 24 May 1847, as Amended to 13 June 1937<sup>2</sup>

2-12. *Declaration of rights, including provision concerning free exercise of industry (9).*

14. *bis.* Inasmuch as the activities of associations and organisations which are affiliated directly or indirectly to the Communist International are injurious to the State and to public order, these associations and organisations are prohibited in the territory of the Canton.

The activities of any such associations and organisations established outside the Canton are prohibited likewise within the territory of the Canton.

Any other association or organisation which is affiliated directly or indirectly to an international or foreign organisation whose activities are deemed to constitute a danger to the State or to public order, may be prohibited by a decision of the Canton Council on the recommendation of the Council of State.

The penalties applicable to persons who are guilty of contraventions of this prohibition, or of the provisions of the laws for the administration thereof, shall be prescribed by law.

120. *Public utility services to be administered by an autonomous public body.*

135-137. *Education.*

139-142. *Foundations.*

## Constitutional Law concerning Individual Liberties and the Inviolability of the Domicile<sup>3</sup>

23 April 1849

.....

## Constitutional Law Establishing Probiviral Courts (Conseils de Prud'hommes)<sup>4</sup>

4 October 1882

1. Disputes which arise between employers and wage-earning or salaried employees, employers and apprentices or masters and domestic servants with

<sup>1</sup> For French text, see *ibid.*, pp. 606-619; for German text, see *ibid.*, pp. 629-643.

<sup>2</sup> For French text, see *ibid.*, pp. 1146-1171.

<sup>3</sup> For French text, see *ibid.*, pp. 1181-1185.

<sup>4</sup> For French text, see *ibid.*, pp. 1192-1193.

respect to the hiring of services, the performance of work or the contract of apprenticeship shall be settled by the probiviral courts (*tribunaux de prud'-hommes*).

2. The members of these courts shall be elected by employers, wage-earning employees and salaried employees meeting separately and divided into groups of allied industries and occupations.

3. Employers, wage-earning employees and salaried employees shall elect in each group an equal number of members.

4. The following persons shall have the right to vote and shall be eligible:

1. Employers, wage-earning employees and salaried employees of Swiss nationality in possession of their constitutional, civic or political rights in the Canton of Geneva;

2. Women of Swiss nationality who have attained the age of twenty years and satisfy the conditions laid down in sub-paragraph 1, and make application in writing to be entered on the electoral lists . . .

5. The electoral procedure, the number of groups and the method of organisation of the probiviral courts shall be prescribed by law.

### Constitutional Law Modifying the Organisation of Public Assistance<sup>1</sup>

29 October 1898

.....

### Constitutional Law on the Abolition of the Budget for Religious Purposes<sup>2</sup>

15 June 1907

.....

### Constitutional Law respecting the Compulsory Submission to Referendum of Laws Entailing Expenditures<sup>3</sup>

21 February 1931

.....

## Glarus

Constitution of 22 May 1887, as Amended 31 December 1937<sup>4</sup>

2-16. *Declaration of rights, including provision concerning free exercise of commerce and industry . . . (12).*

17. *Taxation.*

18. *Education.*

19. *Public assistance.*

21. *Legislation to be enacted for promotion of agriculture, industry, commerce and handicrafts.*

<sup>1</sup> For French text, see *Sammlung der Bundes—und Kantonsverfassungen, Recueil des constitutions fédérales et cantonales*, 5th edition, 1937, pp. 1196-1197.

<sup>2</sup> For French text, see *ibid.*, pp. 1200-1203.

<sup>3</sup> For French text, see *ibid.*, pp. 1206-1207.

<sup>4</sup> For German text, see *ibid.*, pp. 540-564.

### Grisons

Constitution of 2 October 1892, as Amended to 31 December 1937<sup>1</sup>

7-11. *Declaration of rights, including provision for free exercise of commerce and industry (10).*

19. *Cantonal bank.*

41. *Education.*

42. *Duty of Canton to promote development of all branches of industry, agriculture, etc.*

43. *Public assistance, public health, etc.*

### Lucerne

Constitution of 28 February 1875, as Amended to 31 December 1937<sup>2</sup>

1-10. *Declaration of rights, including provisions concerning education and free exercise of commerce and industry . . .*

58. *Cantonal bank.*

82. Legislation may be enacted to provide for the establishment of one or more industrial arbitration courts for the settlement of industrial disputes and a commercial court for commercial cases and to determine the rules of election, composition and competence thereof.

### Neuchâtel

Constitution of 21 November 1858, as Amended to 31 December 1937<sup>3</sup>

5-15. *Declaration of rights, including provision concerning free exercise of industry.*

16. *Progressive rates of taxation.*

68-70. *Public assistance.*

74-79. *Education.*

### St. Gall

Constitution of 30 August 1890, as Amended to 31 December 1937<sup>4</sup>

2-10. *Education.*

11. *Public health.*

13. The State shall protect labour, in particular that of women and children who are employed in handicrafts and industries which are not covered by Federal legislation.

Sundays and general holidays shall be public rest days.

14. *Public assistance.*

15. *Measures to promote agriculture and forestry including establishment and*

<sup>1</sup> For German text, see *ibid.*, pp. 882-896; for Italian text, see *ibid.*, pp. 908-921.

<sup>2</sup> For German text, see *ibid.*, pp. 349-376.

<sup>3</sup> For French text, see *ibid.*, pp. 1115-1130.

<sup>4</sup> For German text, see *ibid.*, pp. 841-867.

*maintenance of vocational schools, agricultural and industrial co-operative societies, etc.*

22-44. *Declaration of rights, including provision concerning free exercise of commerce and industry . . . (27).*

80. The citizens shall be entitled to submit legal disputes to arbitration courts elected by themselves. Arbitration courts with generally binding jurisdiction may be established by legislation for the settlement of disputes between employers and employees. Special courts may also be established for disputes, the settlement of which requires special industrial knowledge.

### Schaffhausen

Constitution of 24 March 1876, as Amended to 31 December 1937<sup>1</sup>

7-20. *Declaration of rights, including provisions concerning free exercise of commerce, industry, arts and sciences . . . (17).*

46-48. *Education.*

55. *Public assistance.*

56. *Duty of State to promote development of agriculture, forestry, industry, commerce and handicrafts.*

57. *Cantonal bank.*

59. *Progressive rates of taxation.*

### Schwyz

Constitution of 23 October 1898, as Amended to 31 December 1937<sup>2</sup>

2-14. *Declaration of rights, including provisions concerning education (9) and free exercise of commerce and industry . . . (14).*

40. *Cantonal bank.*

### Solothurn

Constitution of 23 October 1887, as Amended to 31 December 1937<sup>3</sup>

12-15. *Declaration of rights including free exercise of commerce and industry.*

40. . . . .

A special judicial authority (industrial arbitration court) shall be established for the settlement of legal disputes between employers and employees.

The organisation and procedure thereof shall be prescribed by law.

47-51. *Education.*

62. *Progressive rates of taxation.*

68-69. *Public assistance, including vocational training of poor children.*

70. *Public health.*

71. The State shall promote insurance, in particular sickness insurance, accident insurance, hail insurance, etc.

It may introduce general or restricted systems of compulsory insurance against sickness, accident and death.

<sup>1</sup> For German text, see *Sammlung der Bundes- und Kantonsverfassungen, Recueil des constitutions fédérales et cantonales*, 5th edition, 1937, pp. 740-765.

<sup>2</sup> For German text, see *ibid.*, pp. 417-441.

<sup>3</sup> For German text, see *ibid.*, pp. 656-679.

It shall promote the principle of freedom of transference from one sick fund to another.

The moneys of workers' sick funds must be invested in public institutions.

72. The State shall protect and promote the interests of commerce, industry and handicrafts, in particular, by an adequate system of apprenticeship.

### Thurgau

Constitution of 28 February 1869, as Amended to 31 December 1937<sup>1</sup>

7-18. *Declaration of rights, including guarantee of free exercise of any occupation in arts, science, commerce and industry.*

24. *Education.*

26. *Cantonal bank.*

27. Legislation shall be enacted to protect and promote the development of agriculture, commerce and industry and the welfare and health of the working classes.

29. *Taxation.*

52. *Provision for the constitution of commercial and trade courts.*

### Ticino

Constitution of 23 June 1830, as Amended to 31 December 1937<sup>2</sup>

1-8. *Declaration of rights.*

47. Probiviral courts (*collegi di probiviri*) may be established by law for the settlement of disputes arising between employers and wage-earning or salaried employees or between masters and servants in connection with the contract for the hiring of services.

The competence of these courts may be extended by law to other matters.

### Unterwalden

#### Nidwalden

Constitution of 27 April 1913, as Amended to 31 December 1937<sup>3</sup>

2-7, 9, 11-13 and 15. *Declaration of rights.*

8. *Provision for voluntary institution of arbitration courts.*

10. *Free exercise of commerce and industry guaranteed. . .*

14. The State shall protect Sunday and holiday rest. Detailed provisions respecting this shall be laid down by law.

Where necessary, the State shall enact provisions for the protection of workers against excessive work injurious to health.

31. *Education.*

32. *Public assistance.*

<sup>1</sup> For German text, see *ibid.*, pp. 970-985.

<sup>2</sup> For Italian text, see *ibid.*, pp. 998-1012.

<sup>3</sup> For German text, see *ibid.*, pp. 500-529.

33. *Measures to promote development of productive capacity in agriculture, commerce, industry, handicrafts, etc.*

34. *Public health.*

44. *Cantonal bank (B b, D 3, E4).*

### Obwalden

Constitution of 27 April 1902, as Amended to 31 December 1937<sup>1</sup>

2-8. *Declaration of rights, including guarantee of free exercise of commerce and industry . . . (5).*

10. *Provision for economic development and introduction of compulsory insurance.*

32 (e). *Cantonal bank.*

41. *Provision for voluntary submission of disputes to arbitration court.*

### Uri

Constitution of 6 May 1888, as Amended to 31 December 1937<sup>2</sup>

1-10. *Declaration of rights, including provisions concerning education and public assistance.*

37. *Progressive rates of taxation.*

42. *Cantonal bank.*

44. The State shall supervise public interests, the development of the Canton and the welfare of its citizens. In order to achieve these aims, the State shall make provision for the following matters:

- (a) Sunday rest;
- (b) Regulation of economic life in conformity with hygienic requirements and the public interest;
- (c) Food and drink trades;
- (d) Care of the insane and of orphans;
- (e) Compulsory labour for the work-shy;
- (f) Measures to promote insurance, etc., development of agriculture, industry and communications, and introduction of new sources of income;
- (g) Public utility institutions, etc.
- (h) In the adjudication of public works, priority for residents of the Canton, in so far as prices and quality compare favourably with those of other persons.

### Valais

Constitution of 8 March 1907, as Amended to 31 December 1937<sup>3</sup>

1-12. *Declaration of rights, including guarantees of free exercise of commerce, industry and the liberal professions.*

13. *Education.*

14. The State shall enact measures for the protection of workers and to ensure freedom to work.

<sup>1</sup> For German text, see *Sammlung der Bundes—und Kantonsverfassungen, Recueil des constitutions fédérales et cantonales*, 5th edition, 1937, pp. 461-489.

<sup>2</sup> For German text, see *ibid.*, pp. 388-409.

<sup>3</sup> For French text, see *ibid.*, pp. 1049-1069; for German text, see *ibid.*, pp. 1081-1102.

15. *Measures for encouragement of agriculture, industry, commerce, etc., vocational education, agricultural co-operative societies, etc.*

18. *Public assistance.*

19. *Hospitals.*

64. A commercial court and one or more probiviral courts (*tribunaux de prud'hommes*) may be established.

### Vaud

Constitution of 1 March 1885, as Amended to 31 December 1937<sup>1</sup>

1-10. *Declaration of rights, including guarantee of free exercise of commerce and industry.*

17-18. *Education, including vocational education.*

19. *Progressive rates of taxation.*

77. *Provision for establishment of arbitration courts.*

### Zug

Constitution of 18 March 1894, as Amended to 31 December 1937<sup>2</sup>

2-12. *Declaration of rights, including provisions concerning education and the recognition of arbitration courts.*

13. *Guarantee of free exercise of commerce and industry.*

14. *Compulsory fire insurance.*

15. *Progressive rates of taxation.*

41 (*m*). *Cantonal bank.*

69. Legislation may be enacted to provide for the establishment of one or more arbitration courts for the settlement of industrial disputes and to specify the electoral rules, composition and attributions of such courts.

### Zurich

Constitution of 31 March 1869, as Amended to 31 December 1937<sup>3</sup>

1-8. *Declaration of rights.*

19. *Progressive rates of taxation.*

21. *Guarantee of free exercise of all occupations in arts, science, commerce and industry. . .*

22. *Public assistance.*

23. The State shall promote and facilitate the development of the co-operative movement, on the basis of self help. It shall enact the statutory provisions requisite for the protection of workers.

24. *Cantonal bank.*

58. *Authorisation of arbitration courts established by mutual agreement.*

62-64. *Education.*

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<sup>1</sup> For French text, see *ibid.*, pp. 1022-1040.

<sup>2</sup> For German text, see *ibid.*, pp. 574-594.

<sup>3</sup> For German text, see *ibid.*, pp. 243-259.

## TURKEY

### Constitution of the Turkish Republic<sup>1</sup>

20 April 1924

#### SECTION I. FUNDAMENTAL PROVISIONS

The Turkish State is republican, nationalist, populist, "étatiste", secular and revolutionist. . . (As amended 5 February 1937.)

#### SECTION V. PUBLIC LAW OF THE TURKS

68. All citizens of Turkey are endowed at birth with liberty and full right to the enjoyment thereof. Liberty consists in the right to live and enjoy life without offence or injury to others. The only limitations on liberty — which is one of the natural rights of all — are those imposed in the interest of the rights and liberties of others. Such limitations on personal liberty shall be defined only in strict accordance with the law.

69. All Turks are equal before the law and are obliged to respect the law. All privileges of whatever description claimed by groups, classes, families and individuals are abolished and forbidden.

70. Inviolability of person; freedom of conscience, of thought, of speech, of press; freedom of travel and of contract, freedom of labour; freedom of private property, of assembly, of association; freedom of incorporation, are among the natural rights of Turks.

71. The life, the property, the honour, and the home of each and all are inviolable.

72. Personal liberty shall not be restricted or interfered with except as provided by law.

73. Torture, corporal punishment, confiscation and extortion are prohibited.

74. No one may be dispossessed of his property or deprived of the possession of his property except in the public interest. In such cases the actual value of the expropriated property must previously have been paid. A special law shall determine the amount and method of payment for forests and lands expropriated to provide for the restoration of land upon (propertyless) cultivators and placing the forests under State administration. No one shall be constrained to make any sort of sacrifice, other than such as may be imposed in extraordinary circumstances and in conformity with the law (as amended 5 February 1937).

75. No one may be molested on account of his religion, his ritual, or his philosophic convictions. All religious observances shall be free on condition that they do not disturb the public peace, or shock public decency or exist in violation of social conventions or the laws (as amended 5 February 1937).

76. Except in specified cases and according to the form of procedure prescribed by law, the persons and the property of citizens shall be immune from search and molestation.

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<sup>1</sup>English translation based on *The Modern World, Turkey*, by Arnold J. TOYNBEE and Kenneth P. KIRKWOOD, New York, 1927, pp. 302-310.



77. The press is free within the limits of the law and shall not be submitted to any censorship previous to publication.

78. The Government shall not restrain the freedom of travel except during general mobilisation or a state of siege, or following the declaration of an epidemic in the country.

79. Limitations upon freedom of contract, labour, property, assembly, association and incorporation shall be determined by law.

80. Subject to the supervision and control of the State, education in all its forms is free on condition that it conforms to the law.

82. Any Turk, acting on his own behalf or on behalf of others, may address petitions and make complaints either to the competent authority or to the Grand National Assembly of Turkey concerning acts and circumstances which he considers contradictory to the law. Complaints or petitions may be offered by separate individuals or by several persons at the same time. The reply to an individual complaint must be given in writing to the person concerned.

84. Taxes are the contribution of the people towards the general expenses of the State. Any levy which does not contribute to the general expenses of the State, or any tax, tithe or contribution of any other nature imposed by individuals or by corporations other than the Government or in the name of the Government, is illegal.

85. Taxes are levied in conformity with the law. Taxes and contributions received in conformity with usage, either by the State or by the local administration of the vilayets or municipalities, may continue to be collected until they have been regulated by law.

87. Primary education is obligatory for all Turks and shall be gratuitous in the Government schools.

88. The name Turk, as a political term, shall be understood to include all citizens of the Turkish Republic, without distinction of, or reference to, race or religion. . .

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## UNION OF SOVIET SOCIALIST REPUBLICS

### Constitution (Fundamental Law) of the Union of Soviet Socialist Republics<sup>1</sup>

5 December 1936

#### CHAPTER I. THE ORGANISATION OF SOCIETY

1. The Union of Soviet Socialist Republics is a socialist State of workers and peasants.

2. The Soviets of Working People's Deputies, which grew and attained strength as a result of the overthrow of the landlords and capitalists and the

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<sup>1</sup> English translation from *Constitution (Fundamental Law) of the Union of Soviet Socialist Republics*, State Publishing House of Political Literature, 1938, pp. 9-111; for Russian text, see Конституция (основной закон) Союза Советских Социалистических Республик. (Москва) Огиз, Государственное Издательство Политической Литературы, 1938 (*Konstitutsiia (osnovnoi zakon) Soiuza Sovetskikh Sotsialisticheskikh Respublik*, Ogiz, Gosudarstvennoe Izdatel'stvo Politicheskoi Literatur'i, 1938).

For an English translation of the Constitution of the U.S.S.R. of 31 Jan. 1924, see *British and Foreign State Papers*, Vol. 120, 1924, Part II, pp. 889-902.

achievement of the dictatorship of the proletariat, constitute the political foundation of the U.S.S.R.

3. In the U.S.S.R. all power belongs to the working people of town and country as represented by the Soviets of Working People's Deputies.

4. The socialist system of economy and the socialist ownership of the means and instruments of production firmly established as a result of the abolition of the capitalist system of economy, the abrogation of private ownership of the means and instruments of production and the abolition of the exploitation of man by man, constitute the economic foundation of the U.S.S.R.

5. Socialist property in the U.S.S.R. exists either in the form of State property (the possession of the whole people), or in the form of co-operative and collective-farm property (property of a collective farm or property of a co-operative association).

6. The land, its natural deposits, waters, forests, mills, factories, mines, rail, water and air transport, banks, post, telegraph and telephones, large State-organised agricultural enterprises (State farms, machine and tractor stations and the like) as well as municipal enterprises and the bulk of the dwelling houses in the cities and industrial localities, are State property, that is, belong to the whole people.

7. Public enterprises in collective farms and co-operative organisations, with their livestock and implements, the products of the collective farms and co-operative organisations, as well as their common buildings, constitute the common, socialist property of the collective farms and co-operative organisations.

In addition to its basic income from the public, collective-farm enterprise, every household in a collective farm has for its personal use a small plot of land attached to the dwelling and, as its personal property, a subsidiary establishment on the plot, a dwelling house, livestock, poultry and minor agricultural implements — in accordance with the statutes of the agricultural artel.

8. The land occupied by collective farms is secured to them for their use free of charge and for an unlimited time, that is, in perpetuity.

9. Alongside the socialist system of economy, which is the predominant form of economy in the U.S.S.R., the law permits the small private economy of individual peasants and handicraftsmen based on their personal labour and precluding the exploitation of the labour of others.

10. The right of citizens to personal ownership of their incomes from work and of their savings, of their dwelling houses and subsidiary household economy, their household furniture and utensils and articles of personal use and convenience, as well as the right of inheritance of personal property of citizens, is protected by law.

11. The economic life of the U.S.S.R. is determined and directed by the State national economic plan with the aim of increasing the public wealth, of steadily improving the material conditions of the working people and raising their cultural level, of consolidating the independence of the U.S.S.R. and strengthening its defensive capacity.

12. In the U.S.S.R. work is a duty and a matter of honour for every able-bodied citizen, in accordance with the principle: "He who does not work, neither shall he eat".

The principle applied in the U.S.S.R. is that of socialism: "From each according to his ability, to each according to his work".

## CHAPTER II. THE ORGANISATION OF THE STATE

14. The jurisdiction of the Union of Soviet Socialist Republics, as represented by its highest organs of State authority and organs of Government, covers:

(a) Representation of the Union in international relations, conclusion and ratification of treaties with other States;

(d) Control over the observance of the Constitution of the U.S.S.R. and ensuring conformity of the Constitutions of the Union Republics with the Constitution of the U.S.S.R.;

(h) Foreign trade on the basis of State monopoly;

(i) Safeguarding the security of the State;

(j) Establishment of the national economic plans of the U.S.S.R.;

(k) Approval of the single State budget of the U.S.S.R. as well as of the taxes and revenues which go to the all-Union, Republican and local budgets;

(l) Administration of the banks, industrial and agricultural establishments and enterprises and trading enterprises of all-Union importance;

(m) Administration of transport and communications;

(n) Director of the monetary and credit system;

(o) Organisation of State insurance;

(p) Raising and granting of loans;

(q) Establishment of the basic principles for the use of land as well as for the use of natural deposits, forests and waters;

(r) Establishment of the basic principles in the spheres of education and public health;

(s) Organisation of a uniform system of national economic statistics;

(t) Establishment of the principles of labour legislation;

(u) Legislation on the judicial system and judicial procedure; criminal and civil codes;

(v) Laws on citizenship of the Union; laws on the rights of foreigners.

15. The sovereignty of the Union Republics is limited only within the provisions set forth in article 14 of the Constitution of the U.S.S.R. Outside of these provisions, each Union Republic exercises State authority independently. The U.S.S.R. protects the sovereign rights of the Union Republics.

16. Each Union Republic has its own Constitution, which takes account of the specific features of the Republic and is drawn up in full conformity with the Constitution of the U.S.S.R.

20. In the event of a discrepancy between a law of a Union Republic and an all-Union law, the all-Union law prevails.

21. A single Union citizenship is established for all citizens of the U.S.S.R. Every citizen of a Union Republic is a citizen of the U.S.S.R.

60. The Supreme Soviet of a Union Republic:

(a) Adopts the Constitution of the Republic and amends it in conformity with article 16 of the Constitution of the U.S.S.R.

(b) Confirms the Constitutions of the Autonomous Republics forming part of it and defines the boundaries of their territories;

(c) Approves the national economic plan and also the budget of the Republic.

## CHAPTER V. THE ORGANS OF GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS

64. The highest executive and administrative organ of State authority of the Union of Soviet Socialist Republics is the Council of People's Commissars of the U.S.S.R.

68. The Council of People's Commissars of the U.S.S.R.:

(a) Co-ordinates and directs the work of the all-Union and Union-Republican People's Commissariats of the U.S.S.R. and of other institutions, economic and cultural, under its administration.

(b) Adopts measures to carry out the national economic plan and the State budget, and to strengthen the credit and monetary system;

(c) Adopts measures for the maintenance of public order, for the protection of the interests of the State, and for the safeguarding of the rights of citizens;

(d) Exercises general guidance in respect of relations with foreign States;  
 (e) Fixes the annual contingent of citizens to be called up for military service and directs the general organisation and development of the armed forces of the country;

(f) Sets up, whenever necessary, special committees and Central Administrations under the Council of People's Commissars of the U.S.S.R. for matters concerning economic, cultural and defence organisation and development.

69. The Council of People's Commissars of the U.S.S.R. has the right, in respect of those branches of administration and economy which come within the jurisdiction of the U.S.S.R., to suspend decisions and orders of the Councils of People's Commissars of the Union Republics and to annul orders and instructions of People's Commissars of the U.S.S.R.

70. The Council of People's Commissars of the U.S.S.R. is appointed by the Supreme Soviet of the U.S.S.R. and consists of:

The Chairman of the Council of People's Commissars of the U.S.S.R.;  
 The Vice-Chairmen of the Council of People's Commissars of the U.S.S.R.;  
 The Chairman of the State Planning Commission of the U.S.S.R.  
 The Chairman of the Soviet Control Commission;  
 The People's Commissars of the U.S.S.R.;  
 The Chairman of the Committee on Arts;  
 The Chairman of the Committee on Higher Education;  
 The Chairman of the Board of the State Bank.

71. The Government of the U.S.S.R. or a People's Commissar of the U.S.S.R. to whom a question of a member of the Supreme Soviet of the U.S.S.R. is addressed must give a verbal or written reply in the respective Chamber within a period not exceeding three days.

72. The People's Commissars of the U.S.S.R. direct the branches of State administration which come within the jurisdiction of the U.S.S.R.

73. The People's Commissars of the U.S.S.R. issue, within the limits of the jurisdiction of the respective People's Commissariat, orders and instructions on the basis and in pursuance of the laws in operation, and also of decisions and orders of the Council of People's Commissars of the U.S.S.R., and supervise their execution.

74. The People's Commissariats of the U.S.S.R. are either All-Union or Union-Republican Commissariats.

75. The All-Union People's Commissariats direct the branches of State administration entrusted to them throughout the territory of the U.S.S.R. either directly or through bodies appointed by them.

76. The Union-Republican People's Commissariats, as a rule, direct the branches of State administration entrusted to them through the corresponding People's Commissariats of the Union Republics; they administer directly only a definite and limited number of enterprises according to a list confirmed by the Presidium of the Supreme Soviet of the U.S.S.R.

77. The following People's Commissariats are All-Union People's Commissariats:

Defence	Heavy Industry
Foreign Affairs	Defence Industry
Foreign Trade	Machine-Building Industry
Railways	Navy
Post, Telegraph and Telephones	Agricultural Stocks.
Water Transport	

78. The following People's Commissariats are Union-Republican People's Commissariats:

Food Industry	Finance
Light Industry	Trade
Timber Industry	Internal Affairs
Agriculture	Justice
State Grain and Livestock Farms	Public Health.

#### CHAPTER VI. THE ORGANS OF GOVERNMENT OF THE UNION REPUBLICS

83. The Council of People's Commissars of a Union Republic is appointed by the Supreme Soviet of the Union Republic and consists of:

The Chairman of the Council of People's Commissars of the Union Republic;  
The Vice-Chairmen;  
The Chairman of the State Planning Commission;  
The People's Commissars of:

Food Industry	Internal Affairs
Light Industry	Justice
Timber Industry	Public Health
Agriculture	Education
State Grain and Livestock Farms	Local Industry
Finance	Municipal Economy
Trade	Social Maintenance;

The Chief of the Arts Administration;

The Representatives of the All-Union People's Commissariats.

84. The People's Commissars of a Union Republic direct the branches of State administration which come within the jurisdiction of the Union Republic.

85. The People's Commissars of a Union Republic issue, within the limits of the jurisdiction of their respective People's Commissariats, orders and instructions on the basis and in pursuance of the laws of the U.S.S.R. and of the Union Republic. of the decisions and orders of the Council of People's Commissars of the U.S.S.R. and that of the Union Republic, and of the orders and instructions of the Union-Republican People's Commissariats of the U.S.S.R.

86. The People's Commissariats of a Union Republic are either Union-Republican or Republican Commissariats.

87. The Union-Republican People's Commissariats direct the branches of State administration entrusted to them, and are subordinate both to the Council of People's Commissars of the Union Republic and to the corresponding Union-Republican People's Commissariats of the U.S.S.R.

88. The Republican People's Commissariats direct the branches of State administration entrusted to them and are directly subordinate to the Council of People's Commissars of the Union Republic.

#### CHAPTER VIII. THE LOCAL ORGANS OF STATE AUTHORITY

94. The organs of State authority in territories, regions, autonomous regions, areas, districts, cities and rural localities (stanitsas, villages, hamlets, kishlaks, auls) are the Soviets of Working People's Deputies.

97. The Soviets of Working People's Deputies direct the work of the organs of administration subordinate to them, ensure the maintenance of public order, the observance of the laws and the protection of the rights of citizens, direct local economic and cultural organisation and development and draw up the local budgets.

#### CHAPTER X. FUNDAMENTAL RIGHTS AND DUTIES OF CITIZENS

118. Citizens of the U.S.S.R. have the right to work, that is, are guaranteed the right to employment and payment for their work in accordance with its quantity and quality.

The right to work is ensured by the socialist organisation of the national economy, the steady growth of the productive forces of Soviet society, the elimination of the possibility of economic crises, and the abolition of unemployment.

119. Citizens of the U.S.S.R. have the right to rest and leisure.

The right to rest and leisure is ensured by the reduction of the working day to seven hours for the overwhelming majority of the workers, the institution of annual vacations with full pay for workers and employees and the provision of a wide network of sanatoria, rest homes and clubs for the accommodation of the working people.

120. Citizens of the U.S.S.R. have the right to maintenance in old age and also in case of sickness or loss of capacity to work.

This right is ensured by the extensive development of social insurance of workers and employees at State expense, free medical service for the working people and the provision of a wide network of health resorts for the use of the working people.

121. Citizens of the U.S.S.R. have the right to education.

This right is ensured by universal, compulsory elementary education; by education, including higher education, being free of charge; by the system of state stipends for the overwhelming majority of students in the universities and colleges; by instruction in schools being conducted in the native language, and by the organisation in the factories, State farms, machine and tractor stations and collective farms of free vocational, technical and agronomic training for the working people.

122. Women in the U.S.S.R. are accorded equal rights with men in all spheres of economic, State, cultural, social and political life.

The possibility of exercising these rights is ensured to women by granting them an equal right with men to work, payment for work, rest and leisure, social insurance and education, and by State protection of the interests of mother and child, pre-maternity and maternity leave with full pay, and the provision of a wide network of maternity homes, nurseries and kindergartens.

123. Equality of rights of citizens of the U.S.S.R., irrespective of their nationality or race, in all spheres of economic, State, cultural, social and political life, is an indefeasible law.

Any direct or indirect restriction of the rights of, or, conversely, any establishment of direct or indirect privileges for, citizens on account of their race or nationality, as well as any advocacy of racial or national exclusiveness or hatred and contempt, is punishable by law.

124. In order to ensure to citizens freedom of conscience, the church in the U.S.S.R. is separated from the State, and the school from the church. Freedom of religious worship and freedom of anti-religious propaganda is recognised for all citizens.

125. In conformity with the interests of the working people, and in order to strengthen the socialist system, the citizens of the U.S.S.R. are guaranteed by law:

- (a) Freedom of speech;
- (b) Freedom of the press;
- (c) Freedom of assembly, including the holding of mass meetings;
- (d) Freedom of street processions and demonstrations.

These civil rights are ensured by placing at the disposal of the working people and their organisations printing presses, stocks of paper, public buildings, the streets, communications facilities and other material requisites for the exercise of these rights.

126. In conformity with the interests of the working people, and in order to develop the organisational initiative and political activity of the masses of the people, citizens of the U.S.S.R. are ensured the right to unite in public organisations — trade unions, co-operative associations, youth organisations, sport and

defence organisations, cultural, technical and scientific societies; and the most active and politically most conscious citizens in the ranks of the working class and other sections of the working people unite in the Communist Party of the Soviet Union (Bolsheviks), which is the vanguard of the working people in their struggle to strengthen and develop the socialist system and is the leading core of all organisations of the working people, both public and State.

127. Citizens of the U.S.S.R. are guaranteed inviolability of the person. No person may be placed under arrest except by decision of a court or with the sanction of a procurator.

128. The inviolability of the homes of citizens and privacy of correspondence are protected by law.

129. The U.S.S.R. affords the right of asylum to foreign citizens persecuted for defending the interests of the working people, or for their scientific activities, or for their struggle for national liberation.

130. It is the duty of every citizen of the U.S.S.R. to abide by the Constitution of the Union of Soviet Socialist Republics, to observe the laws, to maintain labour discipline, honestly to perform public duties, and to respect the rules of socialist intercourse.

131. It is the duty of every citizen of the U.S.S.R. to safeguard and strengthen public, socialist property as the sacred and inviolable foundation of the Soviet system, as the source of the wealth and might of the country, as the source of the prosperous and cultured life of all the working people.

Persons committing offences against public, socialist property are enemies of the people.

132. Universal military service is law.

Military service in the Workers' and Peasants' Red Army is an honourable duty of the citizens of the U.S.S.R.

133. To defend the fatherland is the sacred duty of every citizen of the U.S.S.R. Treason to the country — violation of the oath of allegiance, desertion to the enemy, impairing the military power of the State, espionage — is punishable with all the severity of the law as the most heinous of crimes.

## REPUBLICS OF THE UNION OF SOVIET SOCIALIST REPUBLICS

### **Russian Soviet Federative Socialist Republic**

Constitution of 21 January 1937<sup>1</sup>

1-12. *Substantially identical with articles 1-12 of the Constitution of the U.S.S.R.*

13. . . Subject to the provisions of article 14 of the Constitution of the U.S.S.R. the R.S.F.S.R. exercises independent autonomy.

17. The laws of the U.S.S.R. are compulsory in the territory of the R.S.F.S.R.

18. Each citizen of the R.S.F.S.R. is a citizen of the U.S.S.R.

<sup>1</sup> Russian text in *Konstitutsia S.S.S.R. Konstitutsii Sojusnykh Sovetskikh Socialisticheskikh Respublik*, pp. 37-66.

For an English translation of the Constitution of the R.S.F.S.R. of 10 July 1918, see McBAIN and ROGERS: *The New Constitutions of Europe*, pp. 379-400. For an English translation of the Constitution of 11 May 1925, as modified 18 May 1929 and 4 Mar. 1931, see *British and Foreign State Papers*, Vol. 131, 1929 Part II, 1934 pp. 883-889; for the original text, see *Collection of Laws and Decrees of the R.S.F.S.R.*, Part I, No. 30, 1 June 1925 (modifications in Nos. 47-48, 25 July 1929, and No. 22, 18 May 1931).

The citizens of all the other Republics of the Union enjoy the same rights in the territory of the R.S.F.S.R. as the citizens of the R.S.F.S.R.

19. The jurisdiction of the R.S.F.S.R. as represented by its highest organs of State authority and organs of Government, covers:

- (a) Establishment of the Constitution of the R.S.F.S.R. and supervision over its observance;
- (b) Approval of the Constitution of the Autonomous Soviet Socialist Republics;
- (c) Submitting for approval by the Supreme Soviet of the U.S.S.R. of the formation of new territories and regions, as well as of new Autonomous Republics and Regions within the limits of the R.S.F.S.R.
- (d) Approval of borders and regional subdivision of Autonomous Soviet Socialist Republics and Autonomous Regions;
- (e) Establishment of borders and district subdivisions within territories and regions;
- (f) Legislation of the R.S.F.S.R.;
- (g) Safeguarding of public order and of the rights of the citizen;
- (h) Approval of the national economic plan of the R.S.F.S.R.;
- (i) Approval of the State budget of the R.S.F.S.R.;
- (j) Establishment of State and local taxes, duties and income other than taxation, in accordance with the legislation of the U.S.S.R.;
- (k) Direction of the enforcement of the budget of the Autonomous Republics and of the local budgets of the territories and regions;
- (l) Direction of matters relating to insurance and thrift;
- (m) Administration of the banks, industrial, agricultural and trading enterprises and establishments within the jurisdiction of the Republic, as well as the direction of local industry;
- (n) Control and supervision over the conditions and management of enterprises under Federal jurisdiction;
- (o) Establishment of principles for the use of land, as well as for the use of natural deposits, forests and waters;
- (p) Direction of housing and municipal economy, building construction programmes and organisation of services in cities and other populated places;
- (q) Building of roads, direction of local transport and communications;
- (r) Labour legislation;
- (s) Direction of matters of public health;
- (t) Direction of social assistance;
- (u) Direction in matters of primary, secondary and higher education;
- (v) Direction of cultural, educational and scientific organisations and institutions of the R.S.F.S.R. and administration of cultural-educational and scientific organisations and institutions of importance to the whole Republic;
- (w) Direction and organisation of physical culture and sports;
- (x) Organisation of judicial organs of the R.S.F.S.R.;
- (y) Granting of citizenship of the R.S.F.S.R.;
- (z) Granting of amnesty and pardon to citizens sentenced by the judicial organs of the R.S.F.S.R.

20. *Substantially identical with article 16 of the Constitution of the U.S.S.R.*

21. The laws of the R.S.F.S.R. are compulsory in the territory of an Autonomous Republic. In the event of a discrepancy between a law of an Autonomous Republic and a law of the R.S.F.S.R. the R.S.F.S.R. law prevails.

41. *Substantially identical with article 64 of the Constitution of the U.S.S.R.*

45. The Council of People's Commissars of the R.S.F.S.R.;

- (a) Co-ordinates and directs the work of the People's Commissariats of the R.S.F.S.R. and of other economic and cultural institutions under its



administration, co-ordinates and controls the work of the Representatives of the All-Union People's Commissariats;

- (b) Adopts measures to carry out the national economic plan;
- (c) Adopts measures to carry out the State and local budgets of the R.S.F.S.R.;
- (d) Adopts measures for the maintenance of public order, for the protection of the interests of the State, and for the safeguarding of the rights of the citizens;
- (e) Directs and controls the work of the Councils of People's Commissariats of the Autonomous Republics, guides and controls the work of the executive committees of the territorial and regional Soviets of Working People's Deputies;
- (f) Sets up, whenever necessary, special committees and Central Administrations under the Council of People's Commissars of the R.S.F.S.R. for matters concerning economic and cultural development.

46. *Similar to article 69 of the U.S.S.R. Constitution.*

47. The Council of People's Commissars of the R.S.F.S.R. is appointed by the Supreme Soviet of the R.S.F.S.R. and consists of:

The Chairman of the Council of People's Commissars of the R.S.F.S.R.  
The Vice-Chairman of the Council of People's Commissars of the R.S.F.S.R.

The Chairman of the State Planning Commission of the R.S.F.S.R.

The People's Commissars of the R.S.F.S.R. for:

Food Industry;  
Light Industry;  
Timber Industry;  
Agriculture;  
State Grain and Livestock Farms;  
Finance;  
Internal Trade;  
Internal Affairs;  
Justice;  
Public Health;  
Education;  
Local Industry;  
Municipal Economy;  
Social Assistance.

The Representative of the Committee of Agricultural Supply of the U.S.S.R.

Chief of the Board of Fine Arts.

The Representatives of the All-Union People's Commissariats.

48 - 54. *Substantially identical with articles 71, 72, 73, 76, 78, 86 and 88 respectively of the U.S.S.R. Constitution.*

55. The following People's Commissariats of the R.S.F.S.R. are Republican People's Commissariats:

Education;  
Local Industry;  
Municipal Economy;  
Social Assistance.

59. The Supreme Soviet of an Autonomous Republic:

- (a) Adopts the Constitution of the Autonomous Republic and submits it for approval to the Supreme Soviet of the R.S.F.S.R.;

- (b) Establishes departmental subdivisions of the Autonomous Republic and the borders of these departments and cities and submits it for approval to the Supreme Soviet of the R.S.F.S.R.;
- (c) Approves the national economic plan and the budget of the Autonomous Republic.

69. The Council of People's Commissars of the Autonomous Republic is appointed by the Supreme Soviet of the Autonomous Republic and consists of:

The Chairman of the Council of People's Commissars of the Autonomous Republic;

The Vice-Chairman of the Council of People's Commissars;

The Chairman of the State Planning Commission;

The People's Commissars for:

Agriculture;

Finance;

Internal Trade;

Internal Affairs;

Justice;

Public Health;

Education;

Local Industry;

Municipal Economy;

Social Assistance.

Chief of the Roads Board;

The Representative of the Committee of Agricultural Supply;

Chief of the Board of Fine Arts;

And, further, according to the specific features of the economy of the Republic and after approval by the Supreme Soviet of the R.S.F.S.R. the People's Commissars for:

Food Industry;

Light Industry;

Timber Industry.

77. *Substantially identical with article 94 of the U.S.S.R. Constitution.*

79. The Soviets of Working People's Deputies (of the territory, region, area, district, city, rural locality, village) direct the cultural-political and economic development of their territory, establish the local budget, direct the work of the organs of administration subordinate to them, ensure the maintenance of public order, contribute to the strengthening of the defence organisation of the country, ensure the observance of laws and the protection of the rights of the citizens.

83. The Executive Committees of the Soviets of Working People's Deputies (of the territory, region, area, district, city, rural locality, village) direct the cultural-political and economic development of their territory, in accordance with decisions of corresponding Soviets of Working People's Deputies and higher organs of State administration.

92. The Territorial (Regional) Soviets of Working People's Deputies shall set up the following sections of Executive Committees for:

Agriculture;

Finance;

Internal Trade;

Public Health;

Education;

Local Industry;

Municipal Economy;

Social Assistance;

Roads;  
 General Matters;  
 Fine Arts;  
 Planning Commission;  
 Administration of staff attached to the President of the Executive Committee;

and, further, according to the specific features of the economy of the territory (region) and after approval by the Union-Republican People's Commissariats for light industry, food industry, timber industry, grain and livestock sovkhozes, sections or administrations for:

Light Industry;  
 Food Industry;  
 Timber Industry;  
 Grain and livestock sovkhozes.

93. The All-Union People's Commissariats and the People's Commissariat for Internal Affairs form their administrations for the territorial (regional) Soviets of Working People's Deputies, in accordance with conditions of the territory (region), and the laws of the U.S.S.R. and of the R.S.F.S.R.

The Supply Committee nominates its representatives to the territorial (regional) Soviets of Working People's Deputies.

96. The District Soviets of Working People's Deputies shall set up the following sections of Executive Committees for:

Agriculture;  
 Education;  
 Finance;  
 Internal Trade;  
 Public Health;  
 Social Assistance;  
 General Matters;  
 Roads;  
 Planning Commissions;  
 Administration of staff attached to the President of the Executive Committee;

and, further, according to the specific features of the economy of the district and after approval by the territorial (regional) Soviet of Working People's Deputies, sections for municipal economy and local industry.

99. *Identical with article 96, except that the words "city Soviets" are substituted for the words "district Soviets".*

122 - 137. *Identical with articles 118-133 of the U.S.S.R. Constitution.*

### Northern Regions of R.S.F.S.R.<sup>1</sup>

. . . . .

<sup>1</sup> For the Decree of the Council of People's Commissars on the Administration of Vrangeli and Herald Islands, 10 June 1926, the Decree of the Central Executive Committee and Council of People's Commissars of the R.S.F.S.R. on the Administration of Islands in the Arctic, 10 Nov. 1929, the Statute on District Congresses of Soviets and District Executive Committees in the Northern Regions of the R.S.F.S.R., 20 Apr. 1932, the Statute on Nomad Soviets in National Districts and Regions of the North of the R.S.F.S.R., 20 Aug. 1933, and other documents relating to the administration of the Soviet Arctic, see TARACOUZIO: *Soviets in the Arctic*, 1938, especially pp. 395-446.

## Ukrainian Soviet Socialist Republic

Constitution of 30 January 1937<sup>1</sup>

1. *Substantially identical with article 1 of the U.S.S.R. Constitution.*
2. The political foundation of the Ukrainian Soviet Socialist Republic is formed by the Soviets of Working People's Deputies, which grew and attained strength as a result of the overthrow of the landlords and capitalists and the achievement of the dictatorship of the proletariat, liberation of the Ukrainian people from the national tsarist subjugation and imperialist bourgeoisie and the destruction of the nationalist counterrevolution.
- 3-12. *Substantially identical with articles 3-12 of the U.S.S.R. Constitution.*
- 13, 16, 17 and 19. *Substantially identical with articles 13, 17, 18 and 19 respectively of the R.S.F.S.R. Constitution.*
39. *Substantially identical with article 64 of the U.S.S.R. Constitution.*
43. *Substantially identical with article 45 of the R.S.F.S.R. Constitution.*
44. *Similar to article 69 of the U.S.S.R. Constitution.*
45. *Substantially identical with article 47 of the R.S.F.S.R. Constitution.*
- 46-48. *Substantially identical with articles 72, 78 and 86 respectively of the U.S.S.R. Constitution.*
49. *Substantially identical with article 55 of the R.S.F.S.R. Constitution.*
- 50-53. *Substantially identical with articles 71, 73, 76 and 88 respectively of the U.S.S.R. Constitution.*
57. *Substantially identical with article 59 of the R.S.F.S.R. Constitution.*
68. *Substantially identical with article 69 of the R.S.F.S.R. Constitution.*
72. *Substantially identical with article 94 of the U.S.S.R. Constitution.*
74. *Substantially identical with article 79 of the R.S.F.S.R. Constitution.*
78. *Substantially identical with article 83 of the R.S.F.S.R. Constitution.*
- 87-88. *Substantially identical with articles 92-93 of the R.S.F.S.R. Constitution.*
91. *Substantially identical with article 96 of the R.S.F.S.R. Constitution.*
94. *Substantially identical with article 99 of the R.S.F.S.R. Constitution.*
- 117-132. *Identical with articles 118-133 of the U.S.S.R. Constitution.*

## Byelorussian Soviet Socialist Republic

Constitution of 23 December 1936<sup>2</sup>

1. *Substantially identical with article 1 of the U.S.S.R. Constitution.*
2. *Substantially identical with article 2 of the Ukrainian Soviet Socialist Republic Constitution.*
- 3-12. *Substantially identical with articles 3-12 of the U.S.S.R. Constitution.*
13. *Substantially identical with article 13 of the R.S.F.S.R. Constitution.*
- 17-19. *Substantially identical with articles 17-19 of the R.S.F.S.R. Constitution.*
39. *Substantially identical with article 64 of the U.S.S.R. Constitution.*

<sup>1</sup> Russian text in *Konstitutsia S.S.S.R. Konstitutsii Sojusnykh Sovetskikh Socialisticheskikh Respublik*, pp. 69-96.

For French translation of Constitution of the Ukrainian Soviet Socialist Republic of 15 May 1929, as amended 4 Mar. 1931, see *British and Foreign State Papers*, Vol. 131, 1929, Part II, 1934, pp. 900-913.

<sup>2</sup> Russian text in *Konstitutsia S.S.S.R. Konstitutsii Sojusnykh Sovetskikh Socialisticheskikh Respublik*, pp. 99-122.

- 43. *Substantially identical with article 45 of the R.S.F.S.R. Constitution.*
- 44. *Similar to article 69 of the U.S.S.R. Constitution.*
- 45. *Substantially identical with article 47 of the R.S.F.S.R. Constitution.*
- 46-47. *Substantially identical with articles 72-73 of the U.S.S.R. Constitution.*
- 48-52. *Substantially identical with articles 71, 76, 78, 88 and 94 respectively of the U.S.S.R. Constitution.*
- 54. *Substantially identical with article 79 of the R.S.F.S.R. Constitution.*
- 58. *Substantially identical with article 83 of the R.S.F.S.R. Constitution.*
- 66-67. *Substantially identical with articles 92-93 of the R.S.F.S.R. Constitution.*
- 69. *Substantially identical with article 96 of the R.S.F.S.R. Constitution.*
- 72. *Substantially identical with article 99 of the R.S.F.S.R. Constitution.*
- 93-108. *Identical with articles 118-133 of the U.S.S.R. Constitution.*

### **Azerbaidzhan Soviet Socialist Republic**

#### **Constitution of 14 March 1937<sup>1</sup>**

- 1. *Substantially identical with article 1 of the U.S.S.R. Constitution.*
- 2. *Substantially identical with article 2 of the Ukrainian Soviet Socialist Republic Constitution.*
- 3-12. *Substantially identical with articles 3-12 of the U.S.S.R. Constitution.*
- 13. *Substantially identical with article 13 of the R.S.F.S.R. Constitution.*
- 17-19. *Substantially identical with articles 17-19 of the R.S.F.S.R. Constitution.*
- 21. *Substantially identical with article 21 of the R.S.F.S.R. Constitution.*
- 42. *Substantially identical with article 64 of the U.S.S.R. Constitution.*
- 46. *Substantially identical with article 45 of the R.S.F.S.R. Constitution.*
- 47. *Similar to article 69 of the U.S.S.R. Constitution.*
- 48. *Substantially identical with article 47 of the R.S.F.S.R. Constitution.*
- 49-55. *Substantially identical with articles 71, 72, 73, 76, 78, 86 and 88 respectively of the U.S.S.R. Constitution.*
- 56. *Substantially identical with article 55 of the R.S.F.S.R. Constitution.*
- 60. *Substantially identical with article 59 of the R.S.F.S.R. Constitution.*
- 71. *Substantially identical with article 69 of the R.S.F.S.R. Constitution.*
- 86. *Substantially identical with article 94 of the U.S.S.R. Constitution.*
- 88. *Substantially identical with article 79 of the R.S.F.S.R. Constitution.*
- 92. *Substantially identical with article 83 of the R.S.F.S.R. Constitution.*
- 100-101. *Substantially identical with articles 93 and 96 respectively of the R.S.F.S.R. Constitution.*
- 103. *Substantially identical with article 99 of the R.S.F.S.R. Constitution.*
- 125-140. *Identical with articles 118-133 of the U.S.S.R. Constitution.*

### **Georgian Soviet Socialist Republic**

#### **Constitution of 13 February 1937<sup>2</sup>**

- 1-12. *Substantially identical with articles 1-12 of the U.S.S.R. Constitution.*

<sup>1</sup> Russian text in *ibid.*, pp. 125-156.

<sup>2</sup> Russian text in *ibid.*, pp. 159-190.

- 13 - 14. Substantially identical with articles 13 and 19 respectively of the R.S.F.S.R. Constitution.
- 17 - 18. Substantially identical with articles 17 - 18 of the R.S.F.S.R. Constitution.
23. Substantially identical with article 21 of the R.S.F.S.R. Constitution.
44. Substantially identical with article 64 of the U.S.S.R. Constitution.
48. Substantially identical with article 45 of the R.S.F.S.R. Constitution.
49. Similar to article 69 of the U.S.S.R. Constitution.
50. Substantially identical with article 47 of the R.S.F.S.R. Constitution.
- 51 - 55. Substantially identical with articles 71, 72, 73, 78 and 86 respectively of the U.S.S.R. Constitution.
56. Substantially identical with article 55 of the R.S.F.S.R. Constitution.
- 57 - 58. Substantially identical with articles 76 and 88 respectively of the U.S.S.R. Constitution.
62. Substantially identical with article 59 of the R.S.F.S.R. Constitution.
72. Substantially identical with article 69 of the R.S.F.S.R. Constitution.
84. Substantially identical with article 94 of the U.S.S.R. Constitution.
89. Substantially identical with article 79 of the R.S.F.S.R. Constitution.
95. Substantially identical with article 83 of the R.S.F.S.R. Constitution.
- 102 - 104. Substantially identical with articles 93, 96 and 99 respectively of the R.S.F.S.R. Constitution.
- 131 - 146. Identical with articles 118 - 133 of the U.S.S.R. Constitution.

### Armenian Soviet Socialist Republic

#### Constitution of 23 March 1937<sup>1</sup>

1. Substantially identical with article 1 of the U.S.S.R. Constitution.
2. Substantially identical with article 2 of the Ukrainian Soviet Socialist Republic Constitution.
- 3 - 12. Substantially identical with articles 3 - 12 of the U.S.S.R. Constitution.
13. Substantially identical with article 13 of the R.S.F.S.R. Constitution.
- 16 - 18. Substantially identical with articles 17 - 19 of the R.S.F.S.R. Constitution.
40. Substantially identical with article 64 of the U.S.S.R. Constitution.
44. Substantially identical with article 45 of the R.S.F.S.R. Constitution.
45. Similar to article 69 of the U.S.S.R. Constitution.
46. Substantially identical with article 71 of the U.S.S.R. Constitution.
47. Substantially identical with article 47 of the R.S.F.S.R. Constitution.
- 48-54. Substantially identical with articles 55, 72, 73, 76, 78, 86 and 88 respectively of the R.S.F.S.R. Constitution.
55. Substantially identical with article 94 of the U.S.S.R. Constitution.
57. Substantially identical with article 79 of the R.S.F.S.R. Constitution.
61. Substantially identical with article 83 of the R.S.F.S.R. Constitution.
- 70-71. Substantially identical with articles 93 and 96 respectively of the R.S.F.S.R. Constitution.
73. Substantially identical with article 99 of the R.S.F.S.R. Constitution.
- 93-108. Identical with articles 118-133 of the U.S.S.R. Constitution.

<sup>1</sup> Russian text in *Konstitutsia S.S.S.R. Konstitutsii Sojusnykh Sovetskikh Socialisticheskikh Respublik*, pp. 123-217.

## Turkmen Soviet Socialist Republic

Constitution of 2 March 1937<sup>1</sup>

1. *Substantially identical with article 1 of the U.S.S.R. Constitution.*
2. *Substantially identical with article 2 of the Ukrainian Soviet Socialist Republic Constitution.*
- 3-12. *Substantially identical with articles 3-12 of the U.S.S.R. Constitution.*
13. *Substantially identical with article 13 of the R.S.F.S.R. Constitution.*
- 17-19. *Substantially identical with articles 17-19 of the R.S.F.S.R. Constitution.*
40. *Substantially identical with article 64 of the U.S.S.R. Constitution.*
44. *Substantially identical with article 45 of the R.S.F.S.R. Constitution.*
45. *Similar to article 69 of the U.S.S.R. Constitution.*
46. *Substantially identical with article 45 of the R.S.F.S.R. Constitution.*
- 47-53. *Substantially identical with articles 71, 72, 73, 76, 78, 86 and 88 of the U.S.S.R. Constitution.*
54. *Substantially identical with article 55 of the R.S.F.S.R. Constitution.*
55. *Substantially identical with article 94 of the U.S.S.R. Constitution.*
57. *Substantially identical with article 79 of the R.S.F.S.R. Constitution.*
61. *Substantially identical with article 83 of the R.S.F.S.R. Constitution.*
- 69-70. *Substantially identical with articles 92-93 of the R.S.F.S.R. Constitution.*
72. *Substantially identical with article 96 of the R.S.F.S.R. Constitution.*
75. *Substantially identical with article 99 of the R.S.F.S.R. Constitution.*
- 95-110. *Identical with articles 118-133 of the U.S.S.R. Constitution.*

## Uzbek Soviet Socialist Republic

Constitution of 23 February 1937<sup>2</sup>

1. *Substantially identical with article 1 of the U.S.S.R. Constitution.*
2. *Substantially identical with article 2 of the Ukrainian Soviet Socialist Republic Constitution.*
- 3-12. *Substantially identical with articles 3-12 of the U.S.S.R. Constitution.*
13. *Substantially identical with article 13 of the R.S.F.S.R. Constitution.*
- 17-19. *Substantially identical with articles 17-19 of the R.S.F.S.R. Constitution.*
21. *Substantially identical with article 21 of the R.S.F.S.R. Constitution.*
42. *Substantially identical with article 64 of the U.S.S.R. Constitution.*
46. *Substantially identical with article 45 of the R.S.F.S.R. Constitution.*
47. *Similar to article 69 of the U.S.S.R. Constitution.*
48. *Substantially identical with article 47 of the R.S.F.S.R. Constitution.*
- 49-50. *Substantially identical with articles 78 and 86 respectively of the U.S.S.R. Constitution.*
51. *Substantially identical with article 55 of the R.S.F.S.R. Constitution.*
- 52-56. *Substantially identical with articles 71, 72, 73, 76 and 88 respectively of the U.S.S.R. Constitution.*
60. *Substantially identical with article 59 of the R.S.F.S.R. Constitution.*
68. *Substantially identical with article 69 of the R.S.F.S.R. Constitution.*
74. *Substantially identical with article 94 of the U.S.S.R. Constitution.*
76. *Substantially identical with article 79 of the R.S.F.S.R. Constitution.*
82. *Substantially identical with article 83 of the R.S.F.S.R. Constitution.*
- 90-91. *Substantially identical with articles 92-93 of the R.S.F.S.R. Constitution.*

<sup>1</sup> Russian text in *ibid.*, pp. 249-278.

<sup>2</sup> *Ibid.*, pp. 221-245.

93. Substantially identical with article 96 of the R.S.F.S.R. Constitution.  
 96. Substantially identical with article 99 of the R.S.F.S.R. Constitution.  
 117-132. Identical with articles 118-133 of the U.S.S.R. Constitution.

### **Tadjik Soviet Socialist Republic**

#### **Constitution of 1 March 1937<sup>1</sup>**

1. Substantially identical with article 1 of the U.S.S.R. Constitution.  
 2. Substantially identical with article 2 of the Ukrainian Soviet Socialist Republic Constitution.  
 3-12. Substantially identical with articles 3-12 of the U.S.S.R. Constitution.  
 13. Substantially identical with article 13 of the R.S.F.S.R. Constitution.  
 15. Substantially identical with article 19 of the R.S.F.S.R. Constitution.  
 17-18. Substantially identical with articles 17 and 18 respectively of the R.S.F.S.R. Constitution.  
 39. Substantially identical with article 64 of the U.S.S.R. Constitution.  
 43. Substantially identical with article 69 of the U.S.S.R. Constitution.  
 44-45. Substantially identical with articles 45 and 47 respectively of the R.S.F.S.R. Constitution.  
 46-50. Substantially identical with articles 72, 73, 76, 78 and 86 respectively of the U.S.S.R. Constitution.  
 51. Substantially identical with article 55 of the R.S.F.S.R. Constitution.  
 52-53. Substantially identical with articles 71 and 88 respectively of the U.S.S.R. Constitution.  
 65. Substantially identical with article 94 of the U.S.S.R. Constitution.  
 67. Substantially identical with article 79 of the R.S.F.S.R. Constitution.  
 72. Substantially identical with article 83 of the R.S.F.S.R. Constitution.  
 79-80. Substantially identical with articles 93 and 96 respectively of the R.S.F.S.R. Constitution.  
 82. Substantially identical with article 99 of the R.S.F.S.R. Constitution.  
 103-118. Identical with articles 118-133 of the U.S.S.R. Constitution.

### **Kazakh Soviet Socialist Republic**

#### **Constitution of 26 March 1937<sup>2</sup>**

1. Substantially identical with article 1 of the U.S.S.R. Constitution.  
 2. Substantially identical with article 2 of the Ukrainian Soviet Socialist Republic Constitution.  
 3-12. Substantially identical with articles 3-12 of the U.S.S.R. Constitution.  
 13. Substantially identical with article 13 of the R.S.F.S.R. Constitution.  
 17-19. Substantially identical with articles 17-19 of the R.S.F.S.R. Constitution.  
 39. Substantially identical with article 64 of the U.S.S.R. Constitution.  
 43. Substantially identical with article 45 of the R.S.F.S.R. Constitution.  
 44. Similar to article 69 of the U.S.S.R. Constitution.  
 45. Substantially identical with article 47 of the R.S.F.S.R. Constitution.  
 46 - 52. Substantially identical with articles 47, 71, 72, 73, 76, 78, 86 and 88 respectively of the U.S.S.R. Constitution.  
 53. Substantially identical with article 55 of the R.S.F.S.R. Constitution.  
 54. Substantially identical with article 74 of the U.S.S.R. Constitution.  
 56. Substantially identical with article 79 of the R.S.F.S.R. Constitution.

<sup>1</sup> Russian text in *Konstitutsia S.S.S.R. Konstitutsii Sojuznykh Sovetskikh Socialisticheskikh Respublik*, pp. 281-307.

<sup>2</sup> *Ibid.*, pp. 311-336.



60. *Substantially identical with article 83 of the R.S.F.S.R. Constitution.*  
 69-70. *Substantially identical with articles 92-93 of the R.S.F.S.R. Constitution.*  
 73. *Substantially identical with article 96 of the R.S.F.S.R. Constitution.*  
 76. *Substantially identical with article 99 of the R.S.F.S.R. Constitution.*  
 96-111. *Identical with articles 118-133 of the U.S.S.R. Constitution.*

### **Kirghiz Soviet Socialist Republic**

Constitution of 23 March 1937<sup>1</sup>

1. *Substantially identical with article 1 of the U.S.S.R. Constitution.*  
 2. *Substantially identical with article 2 of the Ukrainian Soviet Socialist Republic Constitution.*  
 3-12. *Substantially identical with articles 3-12 of the U.S.S.R. Constitution.*  
 13. *Substantially identical with article 13 of the R.S.F.S.R. Constitution.*  
 17-19. *Substantially identical with articles 17-19 of the R.S.F.S.R. Constitution.*  
 39. *Substantially identical with article 64 of the U.S.S.R. Constitution.*  
 43. *Substantially identical with article 45 of the R.S.F.S.R. Constitution.*  
 44. *Substantially identical with article 69 of the U.S.S.R. Constitution.*  
 45. *Substantially identical with article 47 of the R.S.F.S.R. Constitution.*  
 46-52. *Substantially identical with articles 71, 72, 73, 76, 78, 86 and 88 respectively of the U.S.S.R. Constitution.*  
 53. *Substantially identical with article 55 of the R.S.F.S.R. Constitution.*  
 54. *Substantially identical with article 94 of the U.S.S.R. Constitution.*  
 56. *Substantially identical with article 79 of the R.S.F.S.R. Constitution.*  
 60. *Substantially identical with article 83 of the R.S.F.S.R. Constitution.*  
 68-69. *Substantially identical with articles 93 and 96 respectively of the R.S.F.S.R. Constitution.*  
 71. *Substantially identical with article 99 of the R.S.F.S.R. Constitution.*  
 89-104. *Identical with articles 118-133 of the U.S.S.R. Constitution.*

### **Karelo-Finnish Soviet Socialist Republic**

Constitution of 9 July 1940

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### **Moldavian Soviet Socialist Republic**

Constitution of 25 August 1940

.....

### **Estonian Soviet Socialist Republic<sup>2</sup>**

Constitution of 25 August 1940<sup>3</sup>

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<sup>1</sup> Russian text in *ibid.*, pp. 339-362.

<sup>2</sup> For the Constitution of Estonia of 15 June 1920, see pp. 51-52.

<sup>3</sup> Russian text in *Pravda*, 26 Aug. 1940.

## Latvian Soviet Socialist Republic<sup>1</sup>

Constitution of 25 August 1940<sup>2</sup>

- 1-12. *Substantially identical with articles 1-12 of the U.S.S.R. Constitution.*  
 13. *Substantially identical with article 13 of the R.S.F.S.R. Constitution.*  
 17-19. *Substantially identical with articles 17-19 of the R.S.F.S.R. Constitution.*  
 39. *Substantially identical with article 64 of the U.S.S.R. Constitution.*  
 43. *Substantially identical with article 45 of the R.S.F.S.R. Constitution.*  
 44. *Similar to article 69 of the U.S.S.R. Constitution.*  
 45. *Substantially identical with article 47 of the R.S.F.S.R. Constitution.*  
 46-47. *Substantially identical with articles 72-73 of the U.S.S.R. Constitution.*  
 48. *First paragraph substantially identical with article 86, and the second paragraph with article 78, of the U.S.S.R. Constitution, and with article 55 of the R.S.F.S.R. Constitution.*  
 49-52. *Substantially identical with articles 71, 74, 76 and 88 respectively of the U.S.S.R. Constitution.*  
 54. *Substantially identical with article 79 of the R.S.F.S.R. Constitution.*  
 56. *Substantially identical with article 83 of the R.S.F.S.R. Constitution.*  
 66. District Soviets of Working People's Deputies shall set up the following sections of executive committees for:

Agriculture  
 Finance  
 Trade  
 Public health  
 Education  
 Local industries  
 Municipal economy  
 Labour  
 Roads  
 General matters  
 Planning commission  
 Section of staff attached to the Chairman of the executive committees.

Further, in accordance with the specific features of the economy of the district and after approval by the corresponding People's Commissariats, the district soviets of Working People's Deputies may set up also other sections and administrations.

67. *Substantially identical with article 93 of the R.S.F.S.R. Constitution.*  
 69. *Substantially identical with article 99 of the R.S.F.S.R. Constitution.*  
 90-105. *Identical with articles 118-133 of the U.S.S.R. Constitution.*

## Lithuanian Soviet Socialist Republic<sup>3</sup>

Constitution of 25 August 1940<sup>4</sup>

*Identical with the Constitution of the Latvian Soviet Socialist Republic.*

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<sup>1</sup> For the Constitution of Latvia of 15 Feb. 1922, see p. 87.

<sup>2</sup> Russian text in *Pravda*, 26 Aug. 1940.

<sup>3</sup> For the Constitution of Lithuania of 15 May 1928, see pp. 90-92.

<sup>4</sup> Russian text in *Pravda*, 26 Aug. 1940.

## VATICAN CITY

### Treaty between the Holy See and Italy Establishing the Vatican State<sup>1</sup>

11 February 1929

.....

Constitutional Laws of 7 June 1929<sup>2</sup>

Fundamental Law of the Vatican City

.....

### Law on the Sources of Law

3. In matters for which the sources specified in article 1 make no provision there shall be observed by way of supplement, until provision is made by laws of the Vatican City, the laws issued by the Kingdom of Italy up to the date of the entry into operation of the present law, together with their general regulations and the local regulations of the Province and of the Governor's Office at Rome, which are indicated in the following articles, with the modifications and limitations specified in the same, provided that the aforesaid laws and regulations are not contrary to the precepts of divine law, to the general principles of canon law, and also to the provisions of the treaty and the concordat concluded between the Holy See and the Kingdom of Italy on the 11th February, 1929, and provided that in relation to the conditions existing *de facto* in the Vatican City they are applicable there.

12. Subject to the reservations specified in article 3, there shall be observed in the Vatican City the Commercial Code of the Kingdom of Italy, together with the laws which have modified and completed it and the relative regulations up to the entry into operation of the present law, and limited to the bills of exchange, cheques and negotiable instruments issued or payable in the Vatican City, together with the insurances of persons resident or effects existing in the said City.

When under the law on the economic, commercial and professional classes the establishment or carrying on of commercial or industrial businesses or undertakings is authorised, there shall be understood to be fully applicable in law, provided that the document of authorisation does not stipulate otherwise, the general rules and the special rules relating to the matter with which the business or undertaking deals, derived from the Commercial Code, the commercial laws and the commercial usages current in the city of Rome.

20. Subject to the reservations specified in article 3, the following shall be observed in the Vatican City:

(a) The law of the Kingdom of Italy on expropriations for public utility purposes, No. 2359 of the 25th June, 1865, modified by the law of the 18th December, 1879, No. 5188, and the decree-law of the 11th March, 1923, No. 691, together with articles 30, 33 and 34 of the Royal decree on the execution of public works dated the 8th February, 1923, No. 422.

<sup>1</sup> English translation from *British and Foreign State Papers*, Vol. 130, 1929, Part, I, pp. 791-800; for original texts, see *Acta Apostolicae Sedis*, 7 June 1929, and *Gazzetta Ufficiale*, 5 June 1929, Extraordinary Number.

<sup>2</sup> English translation from *British and Foreign State Papers*, Vol. 130, 1929, Part I, pp. 1004-1017; for Latin text, see *Acta Apostolicae Sedis*, 8 June 1929 (supplement).

When for serious reasons it is necessary, apart from the cases contemplated in the aforesaid law on expropriations for public utility purposes, to dispose of the use of private immovable property or to acquire the ownership of movable effects or to use the same or to request work to be done, the Governor shall make provision, by a decree officially executory, on payment of a just sum which he shall fix, saving action before the competent judge for the final determination of the said sum.

Without prejudice either to the execution officially or to the civil action for fixing the payment, any person who fails to comply with the decree of the Governor in the above-mentioned cases shall be punished with a fine up to 9,000 lire or with arrest up to 6 months.

(b) The legislation of the Kingdom of Italy in force on the entry into operation of the present law, including the relative regulations, dealing with:

Antiquities and the fine arts.

Scenic beauties.

The transmission of electric power to a distance.

Public works, excluding matters relating to contracts, which continue to be governed by the agreements to be concluded from time to time, and saving the provisions of article 8 of the law of even date, No. V.

(c) The legislation of the Kingdom of Italy in force as above, including the regulations, and the treaties ratified by the Kingdom of Italy up to the entry into operation of the present law and the rules executing the said treaties, without prejudice to the accession of the Vatican City to the latter in due course, concerning:

- (1) Weights and measures of every kind.
- (2) Artistic and literary property.
- (3) Patents and trade marks.
- (4) Railways.
- (5) Posts.
- (6) Telegraphs.
- (7) Telephones.
- (8) Radiotelegraphy and radiotelephony.
- (9) Aviation.
- (10) Motor cars and their circulation.
- (11) Protection against infectious and contagious diseases.

In relations between the Vatican City and the Kingdom of Italy in the above-mentioned matters exception is made in favour of the special conventions to be negotiated, which, if required, shall be in derogation of the rules provisionally cited above.

(d) In general the laws of the Kingdom of Italy with the relative general and special regulations of the Province of Rome and the Roman Governor's establishment, as regards hygiene and public health, the security and integrity of the person and effects, the building and urban police, and in general any subject which, not being already governed by this or other laws of the Vatican City, requires to be judicially regulated in that city, excluding, however, unless expressly cited, matters dealing with the charter of bodies or public offices, the economic and juridical treatment of officials and employees, the armed bodies, the contributions, subsidies and the like of the administration for the benefit of the subjects, the payments, taxes and financial burdens in favour of the administration imposed on subjects, and the accounting service and finance.

The Governor's Office shall organise the service of sanitary assistance in accordance with regulations to be issued by the Governor.

There shall be substituted for the authorities of the Kingdom of Italy prescribed in the laws and regulations cited in this article the Governor or the official or office subordinate to him designated for the purpose.

21. Elementary education is obligatory from the age of 6 to that of 14,

inclusive, for children of both sexes who, until the establishment of schools in the Vatican City, must attend those of Rome, which shall be designated by the Governor after agreement with the local authorities.

Parents or guardians who infringe the above-mentioned obligation shall be punished by a fine up to 500 lire or by arrest up to 10 days, except when they prove that they are able to give private instruction at their own charge and expense and with suitable means.

The penalty may be inflicted twice in the course of the same scholastic year.

22. When it is not found possible to settle a civil dispute by a precise juridical rule contained in the sources indicated in the foregoing articles, and also because the legislation of the Kingdom of Italy appealed to by way of supplement is not applicable, the judge, taking into consideration the precepts of divine law and of natural law, and also the general principles of canon law, shall decide the matter by applying the criterion which he would follow if he were a legislator.

### Law on the Economic, Commercial and Professional Classes

1. The State of the City of the Vatican has its own money.

Until the rules in regard to the matter have been published and the money issued, the money and banknotes of the Kingdom of Italy, in accordance with the legislation of the latter, shall be legal tender.

2. The permission of the Governor is necessary for the alienation of immovable property situated in the territory of the Vatican City by document *inter vivos* either for a financial consideration or gratuitously, for the constitution of rights of perpetual lease, surface, use, usufruct, servitude, mortgage or any other real right, and also for leasing and sub-leasing, even in part, the said immovable property for any period of time.

The same permission is required for the acquisition of the said rights over the said immovable property in consequence of legitimate succession or testamentary disposition either on a universal or a private basis.

Until permission has been accorded no one may give up possession of the immovable property or carry through the above-mentioned transactions. Contraventions of this prohibition shall be punished by fine up to 3,000 lire.

The lack of permission shall cause the transactions contemplated in this article to be of no effect. Nullity may also be pronounced by the Governor.

If permission is refused for the transfer of immovable property as the result of succession as above, the property shall pass to the patrimony of the State on payment of a just sum fixed by the Governor, subject to a claim being made to the courts in the manner and forms laid down for sums of money paid as the result of expropriation. If permission is refused for the acquisition, by way of succession, of real rights, the heir authorised to acquire the property shall hold it freely and must pay the burdened person a pecuniary compensation, to be fixed in the event of disagreement by the judicial authorities.

3. No work of transformation or extension may be carried out on the immovable property situated in the Vatican City and not belonging to the Holy See without the previous sanction of the Governor.

Contraventions of this prohibition shall be punished by a fine up to 5,000 lire, besides, in the discretionary judgment of the Governor or the office deputed for that purpose, alteration to the original form to be undertaken forthwith without formality and at the expense of the contravener.

4. The acquisition of goods or commodities of any nature and source for resale, and their sale, are reserved as a monopoly to the State, according to rules to be laid down by regulation.

The State shall also provide, by means of an organisation of its own, a pharmaceutical service.

Goods or commodities may only be imported into the Vatican City free of the customs and consumption dues in force in the Kingdom of Italy, when intended

for definite persons resident in the City and for their personal use or that of their family, through the channel of the competent offices of the State, in accordance with rules to be laid down by regulation. Amounts in excess of such use shall be confiscated, with or without compensation, as the case may require.

5. The importation by private individuals into the Vatican City for their personal use or for the use of their families of goods or commodities acquired in the Kingdom of Italy, after they have been subjected to the customs and consumption dues in force in that Kingdom, is unrestricted, subject, when necessary, to the burden of proof of the above-mentioned conditions being on the person introducing the articles.

The importation by private individuals into the Vatican City of goods or commodities, even if the customs and consumption dues fixed by the laws of the Kingdom of Italy have been satisfied, is prohibited when it takes place in such quantities and manner as to make clear their destination for commercial purposes, as is also the holding of the said goods or commodities and the sale of the same.

Contraventions of the prohibition in the preceding paragraph shall be punished by a fine up to 5,000 lire, in addition to the confiscation of the goods or commodities. In the event of repetition arrest up to 6 months may be added to the penalty.

The importation by private individuals into the Vatican City of goods or commodities in respect of which the customs and consumption dues have not been satisfied as above is further forbidden when it takes place in such quantities and manner as to show their destination for commercial purposes, as is also the holding of the said goods or commodities and the sale of the same.

The violation of the prohibition in the preceding paragraph shall be punished by fine up to 15,000 lire. In each case the goods imported or held or sold in violation of the prohibition shall be confiscated, in addition to the containers and the means of transport. In the event of association for the purpose of committing the offence, or of the offence being repeated, the penalty of imprisonment up to 3 years may be added.

6. The exportation of goods or commodities from the Vatican City to the territory of the Kingdom of Italy is forbidden. The violation of this prohibition, or even the mere attempt to do so, shall be punished by fine on the scale fixed in the last paragraph of the preceding article, and with imprisonment up to 3 years, in addition to the confiscation of the contraband goods or commodities and also their containers and means of transport.

The exportation of objects of personal use in quantities customary for journeys, and the exportation of furniture in the event of cessation of residence in the Vatican City, are exempted from the prohibition.

7. Without the Governor's authorisation no one may open shops, businesses or offices even for the mere carrying on of trade, or establish industrial or commercial undertakings of any kind, or open rooms, offices, agencies or places with a fixed address for the exercise of any profession.

If under the law in force in the Vatican City or the national law of the person carrying on the profession, if he be a foreigner, a qualification is required for the exercise of the profession, the authorisation may only be granted when the qualification is obtained in accordance with the Vatican or foreign law.

Contraventions of this prohibition shall be punished by a fine up to 3,000 lire, in addition to the closing of the premises to be effected forthwith without formality.

8. When the permission referred to in the preceding article is granted for the establishment of businesses of commercial or industrial undertakings, the employer of labour shall, until the issue of other laws for the Vatican City, be legally subject to the provisions of the legislation of the Kingdom of Italy in force at the entry into operation of the present law, so far as the said provisions are applicable, and with the reservations referred to in article 3 of the law No. II of even date on the sources of law, as regards all matters dealing with the contract

of employment, the work of women and children, the eight-hour day, Sunday rest, social insurance against accidents, maternity, invalidity and old age, unemployment and tuberculosis. He shall, when it is not otherwise provided by law or by the terms of the document of concession, until special rules shall have been published for the Vatican City, make provision for the relative insurances by means of contracts with the same institutions or bodies with whom it is obligatory to make provision in accordance with the legislation of the Kingdom of Italy.

Foreign contractors who by agreement with the public administration or with private individuals execute contracts or perform any work or furnish any supplies in the Vatican City, are subject to the same rules in the preceding paragraph.

9. The occasional or temporary exercise, in favour of persons resident in the Vatican City or of their property, of professions, arts, undertakings, trades and the like, even on the part of foreigners, is unrestricted, subject to the observance of the rules governing entry and sojourn.

Nevertheless, in the case contemplated in this article, if under the Vatican law or the national law of the person exercising the profession a qualification is required, the services may not be given by a person who is not able to prove that he has obtained such qualification.

Contraventions of the prohibitions contained in this article shall be punished by a fine up to 9,000 lire or by arrest up to 6 months.

### Law of Public Security

3. The constitution of any association without the authorisation of the Governor is forbidden.

The prohibition does not extend to the religious orders, congregations and associations referred to in the *Codex juris canonici* and constituted in accordance with the same.

The associations constituted in contravention of the prohibition shall be dissolved, subject to the measures considered appropriate in regard to the premises and property.

Contraveners shall be punished by fine up to 9,000 lire and arrest up to 6 months.

4. Any meeting in a public place or one open to the public is forbidden without the previous authorisation of the Governor. A meeting is considered to be public even if it is announced by means of invitations in private form, when by reason of the place appointed, the number of persons invited or the object of the meeting it is clear that its private character is simulated.

The provisions of the preceding article do not apply to receptions, religious processions and ceremonies and to funerals, subject to the arrangements to be made by the Governor.

Meetings which are not authorised shall be dissolved with the aid of public force. Those which are authorised may also be so dealt with if disorders occur or if there is danger of their taking place.

A person who takes part in an unauthorised meeting shall be punished by a fine up to 9,000 lire or by arrest from 10 days to 6 months.

Anyone who fails to comply with the order to dissolve an unauthorised meeting shall be punished by fine up to 4,500 lire or by arrest up to 3 months.

5. It is forbidden to keep arms even in a person's own house, or to carry them outside the same, without a licence from the Governor.

Instruments with a point or an edge capable of inflicting injury may not be carried outside a person's own house without a justified reason.

A licence is also necessary for collecting artistic, rare and antique arms.

Anyone who contravenes the prohibition to keep or carry arms without a licence or to carry instruments capable of inflicting injury, without justified

reason, shall be punished by fine up to 9,000 lire or arrest up to 6 months. The said arms and instruments aforesaid shall be confiscated.

Whoever contravenes the prohibition to possess collections of artistic, rare and antique arms without a licence shall be punished by fine up to 3,000 lire. Confiscation is optional.

6. It is forbidden, without a licence from the Governor, to hold war arms, stocks of non-war arms and stocks of munitions and explosive materials. Whoever violates this prohibition shall be punished, if the act does not constitute a more serious offence, by imprisonment from 3 months to 3 years, in addition to the confiscation of the arms, munitions and explosive materials.

7. For the observance of the two preceding articles the Governor may order domiciliary visits or personal searches to be made.

8. The public exercise of the typographic, lithographic and photographic arts or any other mechanical or chemical reproduction of characters, designs or figures is forbidden without a licence from the Governor.

It is forbidden to affix or to offer to the public, even gratuitously, notices, writings, printed matter, books, engravings, lithographs, photographs or statues of any kind without a licence from the Governor.

Contraventions of the two prohibitions referred to above shall be punished by fine up to 9,000 lire or arrest up to 6 months.

9. Hawking of any kind is absolutely forbidden. Contraventions of this prohibition shall be punished in the same manner as those referred to in the preceding article.

10. The exercise of the calling of guide or interpreter is forbidden without a licence from the Governor, which is subject to the ascertainment of the suitability of the candidate.

Any person who contravenes this prohibition shall be punished by fine up to 4,500 lire or by arrest up to 3 months.

11. The authorisations or licences contemplated in the preceding articles may be given by the Governor and also by the offices subordinate to him, with the exception of the authorisation referred to in article 3, and they may be made subject to all the conditions and terms deemed to be appropriate. They shall at any time be revocable without compensation.

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## YUGOSLAVIA

### Constitution of the Kingdom of Yugoslavia<sup>1</sup>

3 September 1931

#### CHAPTER II. ELEMENTARY RIGHTS AND DUTIES OF CITIZENS

4. There is but one single nationality in the whole Kingdom. All citizens are equal before the law. All enjoy equal protection from the authorities.

.....  
5. Personal liberty is guaranteed.

.....  
9. No citizen may be banished from the State. He may not be deported from

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<sup>1</sup> English translation from *British and Foreign State Papers*, Vol. 134, 1931, pp. 1170-1182; for Serb text, see *Službene Novine*, 1939, No. 207-LXVI, p. 1305.



one place in the country to another, nor may he be obliged to remain at a certain place except in the cases expressly contemplated by law.

No one may be expelled from his place of origin without a judicial decision.

11. Freedom of religion and conscience is guaranteed. . .

The enjoyment of civil and political rights is independent of the exercise of religion. No one can claim exemption from civil and military obligations and duties by reason of the prescriptions of his religion.

12. Everyone is free, within the limits of the law, to express his opinion orally, in writing, by pictures, or in any other appropriate manner.

13. Citizens have the right to form associations, and to hold meetings and consult together, within the limits of the law. Associations for political party purposes or for purposes of physical culture may not be formed on a denominational, racial or religious basis.

No one may attend meetings armed.

14. Citizens have the right of petition. Petitions may be signed by one or more persons and also by any legal entity. They may be addressed to all authorities without distinction.

15. Science and arts are free.

16. In addition to State public schools, private schools may also be allowed within the limits of the law.

Elementary education is compulsory. In the State primary schools it is free.

All schools must impart a moral education and develop the civic conscience in the spirit of national unity and religious tolerance.

All educational institutions are placed under State control.

19. All offices in all branches of the civil service are open on equal terms to all citizens.

### CHAPTER III. SOCIAL AND ECONOMIC PROVISIONS

21. Marriage, the family and children are under the protection of the State.

22. Property is guaranteed.

The form and the limits of property rights are defined by law.

The expropriation of private property in the public interest is permitted, in virtue of the law and on payment of just compensation.

23. The freedom of labour and the liberty of contract in economic relations are recognised.

The State has, in the interests of the community and in accordance with the law, the right and the duty to intervene in the economic relations of nationals, in a spirit of justice and in order to prevent social conflicts.

24. As an advisory body in social and economic matters an Economic Council is established, which shall, at the request of the Government or of Parliament, give its expert opinion.

The Economic Council is composed of representatives of the economic professions and of experts in economic and social matters.

The composition and procedure of the Economic Council shall be laid down by a special law.

### CHAPTER X. FINANCES AND DOMAIN OF THE STATE

106. State property is administered by the Minister for Finance unless otherwise provided for by law.

A special law shall govern the alienation of State domains.

The right of monopoly appertains to the State.

Mines, waters, mineral springs and natural power are the property of the State.

A special law shall govern the granting of mining, industrial or other concessions of any kind.

## Constitution of the Kingdom of the Serbs, Croats, and Slovenes<sup>1</sup>

*Adopted by the National Assembly in Belgrade on 15 June 1921,  
and Proclaimed by the King on 28 June 1921*

### SECTION II. FUNDAMENTAL RIGHTS AND DUTIES OF CITIZENSHIP

13. Freedom of press is guaranteed. No measure can be instituted that would prevent printing, selling, and distributing of literature and newspapers. Censorship can be enforced only in time of war or mobilisation and that for measures foreseen by law. Distribution and selling of newspapers or printed matter which contain libel on the ruler or the members of the Royal House, foreign ruling heads, national assembly, indirectly calling upon the citizens to change the Constitution or the national laws by force, or which contain offence against public morals, are forbidden. However, in these cases the authorities are bound to take the matter to court within twenty-four (24) hours after the suspension, and the court is in duty bound to sustain or dismiss the charge within twenty-four hours; otherwise the suspension is considered as rescinded. Courts of proper jurisdiction decide the matter of damages independently of court's decision regarding the suspension. For an offence committed by the press the following are responsible: the writer, editor, printer, publisher, and distributor. By special law for the press it will be decided when and in what cases and in what manner any of the above-mentioned persons will be responsible for the offence committed through the press. All offences committed by the press will be tried by courts of proper jurisdiction.

14. Citizens have the right of assembly, meetings, and conferences. Additional regulations regarding this will be provided by law. No person will be permitted to carry arms to meetings. Holding of open-air meetings must be announced to the proper authorities at least twenty-four hours beforehand. Citizens have the right of assembly for any objects that are not punishable by law.

16. Learning and arts are free and enjoy the protection and support of the Government. University education is free. Education is national. Education is based upon the same foundation throughout the country, adapting itself to the localities for which it is intended. All schools must teach moral uplift and broad national ideals in the spirit of national unity and religious tolerance. Elementary education is national, general, and compulsory. Religious training is given according to the wishes of the parent or elders, based on their creeds and in accordance with their religious beliefs. Technical schools will be established according to the needs of vocations. Education is given by the Government without entrance fees, tuition, or other taxes. The manner in which private schools, their like, and under what conditions they shall be permitted will be provided by law. All institutions for education are under Government control. The Government will aid the work of national education. Minorities of race and language are given elementary education in their mother tongue, under provisions which will be prescribed by law.

<sup>1</sup> English translation from MCBAIN and ROGERS: *The New Constitutions of Europe*, pp. 343-378.

## SECTION III. SOCIAL AND ECONOMIC REGULATIONS

22. The Government will endeavour to create for its citizens equal opportunity to prepare themselves for profitable vocations to which they are inclined. In that direction it will establish educational trade organisations and arrange for permanent assistance for education of worthy poor children.

23. The labouring classes are under the protection of the Government. Women and minors must be protected from work dangerous to their health. The law provides separate measures for the welfare and protection of the workman and prescribes working hours in all undertakings.

24. Inventions are the property of the inventor and enjoy the protection of the Government.

25. Freedom of negotiation and organisation in business affairs is recognised in so far as it does not interfere with social interests.

26. The Government has, in the interest of the whole and based upon the spirit of the law, the right and duty to intervene in the economic affairs of its citizens in the spirit of justice and for the prevention of social adversity.

27. The Government will take care: (1) to improve general hygienic and social conditions, which are essential to national health; (2) to give special protection to mothers and small children; (3) to guard the health of all citizens; (4) to check and prevent all the acute and chronic contagious diseases, as well as to check the harmful use of alcohol; and (5) to furnish free medicine and other necessities for the protection of national health to poor and needy citizens.

28. Marriage is under the protection of the Government.

29. The State aids materially national associations; also the State aids materially other national economic organisations that are not for profit. To such associations and to such economic organisations priorities are given in the transaction of business upon equal terms with other private institutions. Laws will be formulated as regards the associations which will apply to the entire country.

30. By special legislation betterment of the agrarian conditions will be provided.

31. Protection of workmen in case of accident, illness, lack of work, incapability, old age, or death will be provided by special legislation.

32. Invalids, war orphans, war widows, the poor and those incapable of work, parents of the killed or those who died in the war, enjoy special protection of the State and assistance as a mark of appreciation. The question of rehabilitation of the invalid and the education of war orphans for work and the future will be regulated by law.

33. The rights of the workingmen to organise for the purpose of improving working conditions is guaranteed.

34. To navigation and fisheries will be given special attention. The welfare of the seaman in case of sickness, invalidity, old age, and death will be provided for by special law.

35. The State will supervise the building and maintaining of all transportation facilities wherever the general national interest demands.

36. Usury of every description is forbidden.

37. Property is guaranteed. Property creates responsibilities. The use of property must not be to the detriment of the whole. Contents, size, and limits of private property are fixed by law. Expropriation of private property in the public interest is permissible according to law, with just compensation.

38. *Fidei commissum* is abolished. Bequests with general advantageous purposes are recognised. It will be determined by legislation what changes of the bequests can be made in accordance with change of conditions.

39. By the inheritance tax law the Government will be assured of its

participation in the inheritance, having in mind the interests of the relations between the heir and the deceased and the value of the inheritance.

40. The supplying of provisions and other necessities for the army is carried out for just compensation.

41. Large private forest tracts are expropriated according to law and become the property of the State or its self-governing bodies. The law will provide how large forest tracts can be property of other lawful public bodies that now exist or will be created. Natural forestry, whose cultivation is necessary for climatical and cultural purposes, also passes over, according to the law of expropriation, to the ownership of the State or its self-governing bodies, in so far as forestation cannot be done by other means. Large forest tracts which foreign powers have given to individual persons become, according to law, the property of the State or municipality without any compensation to those persons. The forestry law will make provisions under which farmers and those who are indirectly occupied with tilling the land can benefit by wood-cutting for building and fuel; also for grazing purposes in the State forests.

42. The feudal system is abolished from the day of the liberation from foreign authority. In so far as before that time injustice was committed by the feudal system or by its transformation to self-justification, these conditions must be corrected by law. Land tenants and land workers in general who cultivate lands in tenancy are considered freeholders of Government lands without any compensation for the same, and they will receive title to the property.

43. Expropriation of large estates and their apportionment to ownership to those who till the lands will be regulated by law. The law will provide the kind of compensation that will be given expropriated estates. For large estates which belong to members of the former alien dynasty and those which the foreign powers have granted to individuals, no compensation will be given. Land settlements will be carried out primarily by the aid of organised colonisation societies, seeing that the inheritors must be provided with necessary means for successful production. In colonisation and in apportionment of expropriated lands, needy soldiers have first choice, meaning those who have fought for the liberation of the Serbs, Croats, and Slovenes and their families. The law will provide the maximum possession of property and the cases in which the minimum of land cannot be alienated from them.

44. For the framing of social and economic legislation the Economic Council is created. Its regulations, duties, and competence will be designated by law.

## SECTION VIII. ADMINISTRATIVE AUTHORITY

96. For the affairs of a local character in the municipalities, counties, districts, and Provinces, a municipal, county, district, and Provincial home rule is established and organised upon the principle of elections. For the home rule and self-administration of cities a special law will be enacted. In the line of Provincial home rule authorities are these duties:

(1) Provincial finances: (a) making of Provincial budget; (b) disposition of Provincial taxation which is payable according to law to cover the Provincial expenditures.

(2) Provincial public works; also building laws.

(3) Attending to advancement of Provincial economic interests — farming, stock raising, wine growing, fruit growing, forestry, river and lake fishing, hunting — as well as technical and agricultural betterments.

(4) Administration of Provincial property.

(5) Supervision of the national health in the Province and making all provisions for the betterment of health conditions in the Province.

(6) Supervision of social tasks in the Province.

- (7) The humanitarian institutions in the Province.
- (8) Transportation institutions in the Province.
- (9) Contributions to the advancement of culture in the Province.
- (10) Contributions to special education in the Province.
- (11) Instituting and maintaining organisations for savings, mutual benefits, and insurance.
- (12) Giving opinions at the request of the Government as to the advisability of proposed laws that have to do with the Province and in general in all other objects for which the Government asks their opinion. Other matters also can be entrusted by law to the home rule authorities of the Province.

If in some of the enumerated conditions the Province cannot perform by its own means, the Government will, upon the application of the Provincial Assembly and according to the decision of the National Assembly, give the necessary means, or will itself carry out the undertakings.

### SECTION XIII. GENERAL INSTRUCTIONS

138. The publication and distribution of newspapers and printed matter may be prohibited which advocate hatred towards the Government as a whole, religious or class hatred, and also when they appeal to the citizenry to resort to violence having for its object the overthrow of the Constitution or the laws of the land by force, if from the contents it is plainly implied that the intent is to bring about such overthrow by citizenry. Section 13, article 3, of the law as to the enforcement of the prohibition is valid in this instance. When the necessity for these measures ceases to exist these laws may be repealed in the legal way.

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## REGIONAL ARRANGEMENTS REGARDING ECONOMIC AND SOCIAL QUESTIONS

### Greek-Yugoslav Agreement<sup>1</sup>

*15 January 1942*

#### CHAPTER I. ORGANS OF THE UNION

I. The Organs of the Union which will meet at regular intervals are:

- 1. A Political Organ constituted by the Ministers for Foreign Affairs, and
- 2. An Economic and Financial Organ constituted by two members of each Government who will be competent in economic and financial matters.

III. A Permanent Bureau will comprise three sections:

- A. Political.
- B. Economic and Financial.
- C. Military.

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<sup>1</sup>English translation from Henri BONNET: *The United Nations on the Way*, 1942, pp. 140-142.

## CHAPTER II. BUSINESS OF THE ORGANS OF THE UNION

VII. (2) The task of the Economic and Financial Organ will be:

A. To co-ordinate the policies of exterior commerce and customs tariffs with a view to the conclusion of a customs union.

B. To elaborate a common economic plan for members of the Union.

C. To constitute by means of special organs all means which will permit the amelioration of communications between members of the Union (railways, roads, navigation by sea, air and river, posts and telegraphs), as well as tourist development within the Union.

D. To prepare a draft of an agreement instituting a Balkan monetary union.

IX. (4) The permanent bureau will form a secretariat of the different Organs of the Union and its task will be:

A. To prepare material for the labours of the Organs of the Union.

B. To study all questions the solution of which may render more efficacious the political, economic, financial and military co-operation of the members of the Union.

C. To supervise the application of the decisions of the Organs of the Union.

## CHAPTER III

X. The High Contracting Parties declare that this Agreement presents the general foundations for the organisation of a Balkan Union. They consider themselves bound by the foregoing dispositions from the date of exchange of the instruments of ratification, and they envisage with satisfaction the future adhesion to this Agreement of other Balkan States ruled by Governments freely and legally constituted.

Polish-Czechoslovak Agreement<sup>1</sup>

25 January 1942

1. The two Governments desire that the Polish-Czechoslovak Confederation should embrace other States of the European area with which the vital interests of Poland and Czechoslovakia are linked up.

2. The purpose of the Confederation is to assure common policy with regard to foreign affairs, defence, economic and financial matters, social questions, transport, posts and telegraphs.

4. The Confederation will co-ordinate the policy of foreign trade and custom tariffs of the States forming the Confederation with a view to the conclusion of a customs union.

5. The Confederation will have an agreed monetary policy. Autonomous banks of issue of the States forming the Confederation will be maintained. It will be their task to assure that the parity established between the various national currencies shall be permanently maintained.

6. The Confederation will co-ordinate the financial policies of the States forming the Confederation, especially with regard to taxation.

7. The development and administration of railway, road, water and air transport as also the telecommunication services will be carried out according to

<sup>1</sup> English translation from Henri BONNET: *The United Nations on the Way*, 1942, pp. 139-140.

a common plan. An identical tariff for postal and telecommunication services will be binding on all the territories of the Confederation. The States in possession of sea and inland harbours will take into consideration the economic interests of the Confederation as a whole. Moreover, the States forming the Confederation will mutually support the interests of the sea and inland harbours of the States forming the Confederation.

8. Co-ordination will also be applied in the realm of social policy of the various States of the Confederation.

9. The Confederation will assure co-operation among its members in educational and cultural matters.

10. Questions of nationality will remain within the competence of the individual States forming the Confederation. The passenger traffic between the various States included in the Confederation will take place without any restrictions, in particular without passports and visas. The question of free domicile and of right to exercise any gainful occupation of the citizens of the individual States forming the Confederation over the whole territory of the Confederation will be regulated.

11. The question of the mutual recognition by the States forming the Confederation of school and professional diplomas, of documents and sentences of court, as well as the question of mutual legal aid in particular in the execution of court sentences will be regulated.

12. The Constitutions of the individual States included in the Confederation will guarantee to the citizens of these States the following rights: freedom of conscience, personal freedom, freedom of learning, freedom of the spoken and written word, freedom of organisation and association, equality of all citizens before the law, free admission of all citizens to the performance of all State functions, the independence of the courts of law, and the control of Government by the representative national bodies by means of free elections.

13. Both Governments have agreed that in order to ensure the common policy with regard to the above-mentioned spheres, the establishment of common organs of the Confederation will be necessary.

14. The States included in the Confederation will jointly defray the costs of its maintenance.

## MINORITIES TREATIES AND DECLARATIONS

### Polish Minorities Treaty, 28 June 1918

*The following provisions from the Treaty relating to the Protection of Minorities between the Allied and Associated Powers and Poland signed at Versailles, 28 June 1919 were the model for the minority provisions included in the treaties of peace with Austria<sup>1</sup>, Hungary<sup>2</sup>, Bulgaria<sup>3</sup>, and Turkey<sup>4</sup>, for the minority treaties concluded with Czechoslovakia<sup>5</sup>, Yugoslavia<sup>6</sup>, Rumania<sup>7</sup>, and Greece<sup>8</sup>, and for the*

<sup>1</sup> Treaty of St. Germain of 10 Sept. 1919, articles 62-69, *The Treaties of Peace, 1919-1923*, Vol. I, pp. 290-292.

<sup>2</sup> Treaty of Trianon, 4 June 1920, articles 54-60, *ibid.*, pp. 481-484.

<sup>3</sup> Treaty of Neuilly, 27 Nov. 1919, *idem*, Vol. II, pp. 667-677, articles 49-57.

<sup>4</sup> Treaty of Lausanne, 24 July 1923, articles 37-45, *ibid.*, pp. 970-973.

<sup>5</sup> Treaty relating to the Protection of Minorities between the Allied and Associated Powers and Czechoslovakia, 10 Sept. 1919, HUDSON: *International Legislation*, Vol. I, 1919-1921, pp. 298-312.

<sup>6</sup> Treaty relating to the Protection of Minorities between the Allied and Associated Powers and the Kingdom of the Serbs, Croats and Slovenes, 10 Sept. 1919, *ibid.*, pp. 312-322.

<sup>7</sup> Treaty relating to the Protection of Minorities between the Allied and Associated Powers and Rumania, 9 Dec. 1919, *ibid.*, pp. 426-436.

<sup>8</sup> Treaty on the Protection of Minorities in Greece, 10 Aug. 1920, *ibid.*, pp. 489-501.

*declarations made by Albania<sup>1</sup>, Lithuania<sup>2</sup> and other states at the time of their admission to the League of Nations.<sup>3</sup>*

1. Poland undertakes that the stipulations contained in articles 2 to 8 of this Chapter shall be recognised as fundamental laws, and that no law, regulation or official action shall conflict or interfere with these stipulations, nor shall any law, regulation or official action prevail over them.

2. Poland undertakes to assure full and complete protection of life and liberty to all inhabitants of Poland without distinction of birth, nationality, language, race or religion.

All inhabitants of Poland shall be entitled to the free exercise, whether public or private, of any creed, religion or belief, whose practices are not inconsistent with public order or public morals.

7. All Polish nationals shall be equal before the law and shall enjoy the same civil and political rights without distinction as to race, language or religion.

Differences of religion, creed or confession shall not prejudice any Polish national in matters relating to the enjoyment of civil or political rights, as for instance admission to public employments, functions and honours, or the exercise of professions and industries.

No restriction shall be imposed on the free use by any Polish national of any language in private intercourse, in commerce, in religion, in the press or in publications of any kind, or at public meetings.

Notwithstanding any establishment by the Polish Government of an official language, adequate facilities shall be given to Polish nationals of non-Polish speech for the use of their language, either orally or in writing, before the courts.

8. Polish nationals who belong to racial, religious or linguistic minorities shall enjoy the same treatment and security in law and in fact as the other Polish nationals. In particular they shall have an equal right to establish, manage and control at their own expense charitable, religious and social institutions, schools and other educational establishments, with the right to use their own language and to exercise their religion freely therein.

9. Poland will provide in the public educational system in towns and districts in which a considerable proportion of Polish nationals of other than Polish speech are residents adequate facilities for ensuring that in the primary schools the instruction shall be given to the children of such Polish nationals through the medium of their own language. This provision shall not prevent the Polish Government from making the teaching of the Polish language obligatory in the said schools.

In towns and districts where there is a considerable proportion of Polish nationals belonging to racial, religious or linguistic minorities, these minorities shall be assured an equitable share in the enjoyment and application of the sums which may be provided out of public funds under the State, municipal or other budget, for educational, religious or charitable purposes.

The provisions of this article shall apply to Polish citizens of German speech only in that part of Poland which was German territory on 1 August, 1914.

10. Educational Committees appointed locally by the Jewish communities of Poland will, subject to the general control of the State, provide for the distribution

<sup>1</sup> Declaration of 2 Oct. 1921, *ibid.*, pp. 733-737.

<sup>2</sup> Declaration of 12 May 1922, *idem*, Vol. II, pp. 868-872.

<sup>3</sup> A collection of the texts of the various instruments governing the protection of minorities is to be found in *Protection of Linguistic, Racial and Religious Minorities by the League of Nations — Provisions contained in the Various International Instruments at present in Force* (Geneva: Publications of the League of Nations), C.L. 110.1927 I. Annex (Minorities 1927.I.B.2).



of the proportional share of public funds allocated to Jewish schools in accordance with article 9, and for the organisation and management of these schools.

The provisions of article 9 concerning the use of languages in schools shall apply to these schools.

11. Jews shall not be compelled to perform any act which constitutes a violation of their Sabbath, nor shall they be placed under any disability by reason of their refusal to attend courts of law or to perform any legal business on their Sabbath. This provision however shall not exempt Jews from such obligations as shall be imposed upon all other Polish citizens for the necessary purposes of military service, national defence or the preservation of public order.

Poland declares her intention to refrain from ordering or permitting elections, whether general or local, to be held on a Saturday, nor will registration for electoral or other purposes be compelled to be performed on a Saturday.

12. Poland agrees that the stipulations in the foregoing articles, so far as they affect persons belonging to racial, religious or linguistic minorities, constitute obligations of international concern and shall be placed under the guarantee of the League of Nations. They shall not be modified without the assent of a majority of the Council of the League of Nations. The United States, the British Empire, France, Italy and Japan hereby agree not to withhold their assent from any modification in these articles which is in due form assented to by a majority of the Council of the League of Nations.

Poland agrees that any Member of the Council of the League of Nations shall have the right to bring to the attention of the Council any infraction, or any danger of infraction, of any of these obligations, and that the Council may thereupon take such action and give such direction as it may deem proper and effective in the circumstances.

Poland further agrees that any difference of opinion as to questions of law or fact arising out of these articles between the Polish Government and any one of the Principal Allied and Associated Powers or any other Power, a Member of the Council of the League of Nations, shall be held to be a dispute of an international character under article 14 of the Covenant of the League of Nations. The Polish Government hereby consents that any such dispute shall, if the other party thereto demands, be referred to the Permanent Court of International Justice. The decision of the Permanent Court shall be final and shall have the same force and effect as an award under article 13 of the Covenant.

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# America

## UNITED STATES OF AMERICA

### The Declaration of Independence<sup>1</sup>

*In Congress, 4 July 1776*

#### THE UNANIMOUS DECLARATION OF THE THIRTEEN UNITED STATES OF AMERICA

When in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness. That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed, — That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it, and to institute new Government, laying its foundation on such principles and organising its powers in such form, as to them shall seem most likely to effect their Safety and Happiness. Prudence, indeed, will dictate that Governments long established should not be changed for light and transient causes; and accordingly all experience hath shown, that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpations, pursuing invariably the same Object evinces a design to reduce them under absolute Despotism, it is their right, it is their duty, to throw off such Government, and to provide new Guards for their future security. — Such has been the patient sufferance of these Colonies; and such is now the necessity which constrains them to alter their former Systems of Government. The history of the present King of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute Tyranny over these States. To prove this, let Facts be submitted to a candid world.

.....  
We, Therefore, the Representatives of the United States of America, in General Congress, Assembled, appealing to the Supreme Judge of the world for the rectitude of our intentions, do, in the Name, and by Authority of the good People of these Colonies, solemnly publish and declare, That these United Colonies are, and of Right ought to be Free and Independent States; that they

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<sup>1</sup> Text from *United States Code*, 1940 edition, Vol. I, pp. xix-xxi.

are Absolved from all Allegiance to the British Crown, and that all political connection between them and the State of Great Britain, is and ought to be totally dissolved; and that as Free and Independent States, they have full Power to levy War, conclude Peace, contract Alliances, establish Commerce, and to do all other Acts and Things which Independent States may of right do. And for the support of this Declaration, with a firm reliance on the protection of divine Providence we mutually pledge to each other our Lives, our Fortunes and our sacred Honour.

## Constitution of the United States, 1789<sup>1</sup>

We, the People of the United States, in Order to form a more perfect Union, establish Justice, ensure domestic Tranquillity, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

### ARTICLE I

#### (Legislative)

Section 8. (Powers of Congress) The Congress shall have Power (1) To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

(2) To Borrow Money on the credit of the United States;

(3) To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

(4) To establish an uniform Rule of Naturalisation, and uniform Laws on the subject of Bankruptcies throughout the United States;

(5) To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;

(6) To provide for the Punishment of counterfeiting the Securities and current Coin of the United States;

(7) To establish Post Offices and Post Roads;

(8) To promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries;

(9) To constitute Tribunals inferior to the supreme Court;

(10) To define and punish Piracies and Felonies committed on the High Seas, and Offences against the Law of Nations;

(11) To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

(12) To raise and support Armies, but no Appropriation of Money to that Use shall be for a longer Term than two Years;

(13) To provide and maintain a Navy;

(14) To make Rules for the Government and Regulation of the land and naval Forces;

<sup>1</sup> Text from *Constitutions of the States and United States*, New York Constitutional Convention Committee, 1938, pp. 1-11. The numerous judicial decisions concerning the interpretation of the Constitution of the United States are conveniently digested in *The Constitution of the United States of America*, revised and annotated 1938, Senate Document 232, 74th Congress, 2nd Session, or in *Corpus Juris Secundum*, Vol. XVI, pp. 1-1507. See also *International Labour Review*, Vol. XLIV, No. 2, Aug. 1941, pp. 123-193, "The American Constitution and International Labour Legislation" by David RIESMAN, Jr.

(15) To provide for calling forth the Militia to execute the Laws of the Union, suppress Insurrections and repel Invasions;

(16) To provide for organising, arming, and disciplining the Militia, and for governing such Part of them as may be employed in the Service of the United States, reserving to the States respectively, the Appointment of the Officers, and the Authority of training the Militia according to the discipline prescribed by Congress;

(17) To exercise exclusive Legislation in all Cases whatsoever over such District (not exceeding ten Miles square) as may, by Cession of particular States, and the Acceptance of Congress, become the Seat of the Government of the United States, and to exercise like Authority over all Places purchased by the Consent of the Legislature of the State in which the same shall be, for the Erection of Forts, Magazines, Arsenals, Dock-Yards, and other needful Buildings; — And

(18) To make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof.

Section 9. (Limitations on Congress) (1) The Migration or Importation of such Persons as any of the States now existing shall think proper to admit, shall not be prohibited by the Congress prior to the Year one thousand eight hundred and eight, but a Tax or duty may be imposed on such Importation, not exceeding ten dollars for each Person.

(2) The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

(3) No Bill of Attainder or ex post facto Law shall be passed.

(4) No capitation, or other direct, Tax shall be laid, unless in Proportion to the Census or Enumeration herein before directed to be taken.

(5) No Tax or Duty shall be laid on Articles exported from any State.

(6) No Preference shall be given by any Regulation of Commerce or Revenue to the Ports of one State over those of another; nor shall Vessels bound to, or from, one State, be obliged to enter, clear, or pay Duties in another.

(7) No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

(8) No Title of Nobility shall be granted by the United States: And no Person holding any Office of Profit or Trust under them, shall, without the Consent of the Congress, accept of any present, Emolument, Office, or Title, of any kind whatever, from any King, Prince, or foreign State.

Section 10. (Limitations on the States) (1) No State shall enter into any Treaty, Alliance, or Confederation; grant Letters of Marque and Reprisal; coin Money; emit Bills of Credit; make any Thing but gold and silver Coin a Tender in payment of Debts; pass any Bill of Attainder, ex post facto Law, or Law impairing the Obligation of Contracts, or grant any Title of Nobility.

(2) No State shall, without the Consent of the Congress, lay any Imposts or Duties on Imports or Exports, except what may be absolutely necessary for executing its inspection Laws; and the net Produce of all Duties and Imposts, laid by any State on Imports or Exports, shall be for the Use of the Treasury of the United States; and all such Laws shall be subject to the Revision and Control of the Congress.

(3) No State shall, without the Consent of Congress, lay any Duty of Tonnage, keep Troops, or Ships of War in time of Peace, enter into any Agreement or Compact with another State, or with a foreign Power, or engage in War, unless actually invaded, or in such imminent Danger as will not admit of delay.

## ARTICLE II

*(Executive)*

Section 2. (Executive powers of the President) . . .

(2) He shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the supreme Court, and all other Officers of the United States, whose Appointments are not herein otherwise provided for, and which shall be established by Law: but the Congress may by Law vest the Appointment of such inferior Officers, as they think proper, in the President alone, in the Courts of Law, or in the Heads of Departments.

## ARTICLE III

*(Judicial)*

Section 2. (Jurisdiction of United States Courts) (1) The Judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; — to all Cases affecting Ambassadors, other public Ministers and Consuls; — to all cases of admiralty and maritime Jurisdiction; — to Controversies to which the United States shall be a Party; — to Controversies between two or more States; — between a State and Citizens of another State; — between Citizens of different States; — between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.

(2) In all Cases affecting Ambassadors, other public Ministers and Consuls, and those in which a State shall be Party, the supreme Court shall have original Jurisdiction. In all the other Cases before mentioned, the supreme Court shall have appellate Jurisdiction, both as to Law and Fact, with such Exceptions, and under such Regulations as the Congress shall make.

(3) The Trial of all Crimes, except in Cases of Impeachment, shall be by Jury; and such Trial shall be held in the State where the said Crimes shall have been committed; but when not committed within any State, the Trial shall be at such Place or Places as the Congress may by Law have directed.

## ARTICLE IV

*(The States)*

Section 2. (Privileges of citizens) (1) The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.

(2) A Person charged in any State with Treason, Felony, or other Crime, who shall flee from Justice, and be found in another State, shall on Demand of the executive Authority of the State from which he fled, be delivered up, to be removed to the State having Jurisdiction of the Crime.

(3) No Person held to Service or Labour in one State, under the Laws thereof, escaping into another, shall, in Consequence of any Law or Regulation therein, be discharged from such Service or Labour, but shall be delivered up on Claim of the Party to whom such Service or Labour may be due.

## ARTICLE VI

*(Miscellaneous)*

(2) This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under

the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

(3) The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.

#### AMENDMENT I

##### *(Freedom of Religion — Press)*

Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

#### AMENDMENT II

##### *(Right to Bear Arms)*

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

#### AMENDMENT III

##### *(Quartering of Soldiers)*

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

#### AMENDMENT IV

##### *(Searches and Seizures)*

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

#### AMENDMENT V

##### *(Rights of Accused)*

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

#### AMENDMENT VI

##### *(Conduct of Trials)*

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained

by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favour, and to have the Assistance of Counsel for his defence.

#### AMENDMENT VII

*(Trial by Jury)*

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

#### AMENDMENT VIII

*(Bail — Punishment)*

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

#### AMENDMENT IX

*(Reserved Rights)*

The enumeration in the Constitution of certain rights, shall not be construed to deny or disparage others retained by the people.

#### AMENDMENT X

*(Reserved Powers)*

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

#### AMENDMENT XIII

*(Slavery)*

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

#### AMENDMENT XIV

*(Citizenship — Representation)*

Section 1. All persons born or naturalised in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

#### AMENDMENT XV

*(Negro Suffrage)*

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, colour, or previous condition of servitude.

Section 2. The Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XVI  
(*Income Tax*)

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration.

AMENDMENT XVIII  
(*Prohibition*)

Section 1. After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

Section 2. The Congress and the several States shall have concurrent power to enforce this article by appropriate legislation.

Section 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

AMENDMENT XIX  
(*Woman Suffrage*)

Section 1. The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

AMENDMENT XXI  
(*Repeal of Prohibition*)

Section 1. The eighteenth article of amendment to the Constitution of the United States is hereby repealed.

Section 2. The transportation or importation into any State, Territory, or possession of the United States for delivery or use therein of intoxicating liquors, in violation of the laws thereof, is hereby prohibited.

Section 3. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by conventions in the several States, as provided in the Constitution, within seven years from the date of the submission hereof to the States by the Congress.

CHILD LABOR AMENDMENT<sup>1</sup>  
(*Not in Force*)

Section 1. The Congress shall have power to limit, regulate, and prohibit the labour of persons under 18 years of age.

Section 2. The power of the several States is unimpaired by this article except that the operation of State laws shall be suspended to the extent necessary to give effect to legislation enacted by the Congress.

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<sup>1</sup> This proposed amendment has been ratified by the following twenty-eight States: Arkansas, Arizona, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Utah, Washington, West Virginia, Wisconsin, Wyoming. Ratification on behalf of three-fourths of the States is required for the entry into force of an amendment (Article V of the Constitution of the United States).



## STATES OF THE UNITED STATES OF AMERICA

*The Constitutions of the States of the United States are so voluminous that it has been impracticable to include extracts from them covering the full range of topics dealt with elsewhere in this volume. Each State Constitution contains a Bill of Rights; these are represented in this volume by that of Virginia which derives directly from the original Virginian Bill of Rights of 1776. In addition to these Bills of Rights many of the State Constitutions contain lengthy provisions regarding agriculture, banks, charities, colour discrimination, conservation policies, corporations, drainage, education, eminent domain, ferries, fish and game, forests, homestead exemptions, imprisonment for debt, insurance, interest, intoxicating liquors, irrigation, joint stock companies, libraries, mining, minors, monopolies and trusts, obscenity, orphans, paupers, public contracts, public health, public lands, public utilities, railroads, slavery, State business enterprises, State finances, taxation, telecommunications and waters, and similar topics; these it has been necessary to omit.<sup>1</sup> Provisions relating to labour standards, industrial relations, social security and migration have been included; these provisions have, however, lost a substantial part of their importance as the result of the development of nation-wide legislation on these subjects.*

**Alabama**Constitution of 1901<sup>2</sup>

I. 30. That immigration shall be encouraged; emigration shall not be prohibited, and no citizen shall be exiled.

IV. 88. It shall be the duty of the Legislature to require the several counties of this State to make adequate provision for maintenance of the poor.

X. 207. The provisions of sections 204 and 205 of this Constitution (*which exempt certain personal property and homesteads from execution*) shall not be so construed as to prevent a labourer's lien for work done and performed for the person claiming such exemption, or a mechanics' lien for work done on the premises.

**Arizona**Constitution of 1912<sup>3</sup>

II. 34. The State of Arizona and each municipal corporation within the State of Arizona shall have the right to engage in industrial pursuits.<sup>4</sup>

XV. 3. The Corporation Commission shall have full power to, and shall,

<sup>1</sup> These provisions are indexed in *Constitutions of the States and United States*, New York State Constitutional Convention Committee, 1938, which contains the full texts. See also *Index Digest of State Constitutions*, New York State Constitutional Convention Commission, 1915, 1546 pp. For fuller historical material, see *The Federal and State Constitutions, Colonial Charters, and other Organic Laws of the States, Territories and Colonies*, ed. by F. N. THORPE, House of Representatives Document 357, 59th Congress, 2nd Session, 1909, 7 vols.

<sup>2</sup> *Constitutions of the States and United States*, pp. 12-64.

<sup>3</sup> *Ibid.*, pp. 65-97.

<sup>4</sup> As amended 5 Nov. 1912. *Arizona Laws*, 1913, 2nd and 3rd Special Sessions, app., p. 2.

prescribe just and reasonable classifications to be used, and just and reasonable rates and charges to be made and collected, by public service corporations within the State for service rendered therein . . . . . and make and enforce reasonable rules, regulations, and orders for the convenience, comfort, and safety, and the preservation of the health, of the employees and patrons of such corporations . . . . .

XVIII. 1. Eight hours and no more, shall constitute a lawful day's work in all employment by, or on behalf of, the State or any political sub-division of the State. The Legislature shall enact such laws as may be necessary to put this provision into effect, and shall prescribe proper penalties for any violations of said laws.

2. No child under the age of fourteen years shall be employed in any gainful occupation at any time during the hours in which the public schools of the district in which the child resides are in session; nor shall any child under sixteen years of age be employed underground in mines, or in any occupation injurious to health or morals or hazardous to life or limb, nor in any occupation at night, or for more than eight hours in any day.

3. It shall be unlawful for any person, company, association, or corporation to require of its servants or employees as a condition of their employment, or otherwise, any contract or agreement whereby such person, company, association, or corporation shall be released or discharged from liability or responsibility on account of personal injuries which may be received by such servants or employees while in the service or employment of such person, company, association, or corporation, by reason of the negligence of such person, company, association, corporation, or the agents or employees thereof; and any such contract or agreement if made, shall be null and void.

4. The common law doctrine of fellow servants, so far as it affects the liability of a master for injuries to his servants resulting from the acts or omissions of any other servant or servants of the common master is forever abrogated.

5. The defence of contributory negligence or of assumption of risk shall, in all cases whatsoever, be a question of fact and shall, at all times, be left to the jury.

6. The right of action to recover damages for injuries shall never be abrogated, and the amount recovered shall not be subject to any statutory limitation.

7. To protect the safety of employees in all hazardous occupations, in mining, smelting, manufacturing, railroad or street railway transportation, or any other industry the Legislature shall enact an Employer's Liability Law, by the terms of which any employer, whether individual, association, or corporation shall be liable for the death or injury, caused by any accident due to a condition or conditions of such occupation, or any employee in the service of such employer in such hazardous occupation, in all cases in which such death or injury of such employee shall not have been caused by the negligence of the employee killed or injured.

8. The Legislature shall enact a Workmen's Compensation Law applicable to workmen engaged in manual or mechanical labour in all public employment whether of the State, or any political sub-division or municipality thereof as may be defined by law and in such private employments as the Legislature may prescribe . . .

9. The exchange, solicitation, or giving out of any labour "black list", is hereby prohibited, and suitable laws shall be enacted to put this provision into effect.

10. No person not a citizen or ward of the United States shall be employed upon or in connection with any State, county or municipal works or employment; provided, that nothing herein shall be construed to prevent the working of prisoners by the State or by any municipality thereof on street or road work or

other public work. The Legislature shall enact laws for the enforcement, and shall provide for the punishment of any violation of this section.<sup>1</sup>

XIX. The Legislature, at its first session, shall enact laws so regulating the operation and equipment of all mines in the State as to provide for the health and safety of workers therein and in connection therewith, and fixing the duties of said office. . .

## Arkansas

### Constitution of 1874<sup>2</sup>

X. 1. The General Assembly shall pass such laws as will foster and aid the agriculture, mining and manufacturing interests of the State, and may create a bureau to be known as the Mining, Manufacturing and Agricultural Bureau.

3. The General Assembly may, by general law, exempt from taxation for the term of seven years from the ratification of this Constitution the capital invested in any or all kinds of mining and manufacturing business in this State, under such regulations and restrictions as may be prescribed by law.

XXIX. 18. The General Assembly, by suitable enactments, shall require such appliances and means to be provided and used as may be necessary to secure as far as possible the lives, health and safety of persons employed in mining and of persons travelling upon railroads and by other public conveyances, and shall provide for enforcing such enactments by adequate pains and penalties.

## California

### Constitution of 1879<sup>3</sup>

X. 6. After the first day of January, eighteen hundred and eighty-two, the labour of convicts shall not be let out by contract to any person, co-partnership, company, or corporation, and the Legislature shall, by law, provide for the working of convicts for the benefit of the State.

XVI. 9. *Validates Unemployment Relief Bond Act of 1933.*

10. *Clauses (a) to (i) relate to unemployment relief bonds and the duties of the Relief Administration and Commission and the local relief committees.*

(j) Whenever the United States Government or any officer or agency thereof shall provide pensions or other aid for the aged, co-operation by the State therewith and therein is hereby authorised in such manner and to such extent as may be provided by law from funds other than funds provided for in sub-divisions (a) and (e) of this section. Nothing contained in this sub-division (j) repeals, amends, or modifies the Old Age Security Act of the State of California in any manner or in any respect whatsoever, and the power of the Legislature in this regard shall be the same in every respect as if this amendment to the Constitution had not been adopted.

<sup>1</sup> As amended 4 Nov. 1930. This amendment became effective 1 Dec. 1930. *Arizona Laws*, 1931, p. 489.

<sup>2</sup> *Constitutions of the States and United States*, New York State Constitutional Convention Committee, 1938, pp. 98-138.

<sup>3</sup> *Ibid.*, pp. 138-234.

XIX. 2. No corporation now existing or hereafter formed under the laws of this State shall, after the adoption of this Constitution, employ, directly or indirectly, in any capacity, any Chinese or Mongolian. The Legislature shall pass such laws as may be necessary to enforce this provision.<sup>1</sup>

3. No Chinese shall be employed on any State, county, municipal, or other public work, except in punishment for crime.

4. The presence of foreigners ineligible to become citizens of the United States is declared to be dangerous to the well-being of the State, and the Legislature shall discourage their immigration by all the means within its power. Asiatic coolieism is a form of human slavery, and is forever prohibited in this State, and all contracts for coolie labour shall be void. All companies or corporations, whether formed in this country or any foreign country, for the importation of such labour, shall be subject to such penalties as the Legislature may prescribe. The Legislature shall delegate all necessary power to the incorporated cities and towns of this State for the removal of Chinese without the limits of such cities and towns, or for their location within prescribed portions of those limits, and it shall also provide the necessary legislation to prohibit the introduction into this State of Chinese after the adoption of this Constitution. This section shall be enforced by appropriate legislation.

XX. 15. Mechanics, materialmen, artisans, and labourers of every class, shall have a lien upon the property upon which they have bestowed labour or furnished material for the value of such labour done and material furnished; and the Legislature shall provide, by law, for the speedy and efficient enforcement of such liens.

17. The time of service of all labourers or workmen or mechanics employed upon any public works of the State of California, or of any county, city and county, city, town, district, township, or any other political sub-division thereof, whether said work is done by contract or otherwise, shall be limited and restricted to eight hours in any one calendar day, except in cases of extraordinary emergency caused by fire, flood, or danger to life and property, or except to work upon public, military, or naval works or defences in time of war, and the Legislature shall provide by law that a stipulation to this effect shall be incorporated in all contracts for public work and prescribe proper penalties for the speedy and efficient enforcement of said law.

17½. The Legislature may, by appropriate legislation provide for the establishment of a minimum wage for women and minors and may provide for the comfort, health, safety and general welfare of any and all employees. No provision of this Constitution shall be construed as a limitation upon the authority of the Legislature to confer upon any commission now or hereafter created, such power and authority as the Legislature may deem requisite to carry out the provisions of this section.<sup>2</sup>

18. No person shall, on account of sex, be disqualified from entering upon or pursuing any lawful business, vocation, or profession.

21. The Legislature is hereby expressly vested with plenary power, unlimited by any provision of this Constitution, to create, and enforce a complete system of workmen's compensation, by appropriate legislation, and in that behalf to create and enforce a liability on the part of any or all persons to compensate any or all of their workmen for injury or disability, and their dependants for death incurred or sustained by the said workmen in the course of their employment, irrespective of the fault of any party. A complete system of workmen's compensation includes adequate provisions for the comfort, health and safety and general welfare of any and all workmen and those dependent upon them for support to the

<sup>1</sup> The provisions of this section held to be in conflict with the United States Constitution and therefore void: *In re Parrot*, 1 Fed. 481.

<sup>2</sup> Added by an amendment adopted 3 Nov. 1914. *California Statutes*, 1913, p. 1746.

extent of relieving from the consequences of any injury or death incurred or sustained by workmen in the course of their employment, irrespective of the fault of any party; also full provision for securing safety in places of employment; full provision for such medical, surgical, hospital and other remedial treatment as is requisite to cure and relieve from the effects of such injury; full provision for adequate insurance coverage against liability to pay or furnish compensation; full provision for regulating such insurance coverage in all its aspects, including the establishment and management of a State Compensation Insurance Fund; full provision for otherwise securing the payment of compensation; and full provision for vesting power, authority and jurisdiction in an administrative body with all the requisite governmental functions to determine any dispute or matter arising under such legislation, to the end that the administration of such legislation shall accomplish substantial justice in all cases expeditiously, inexpensively, and without incumbrance of any character; all of which matters are expressly declared to be the social public policy of this State, binding upon all departments of the State Government.

The Legislature is vested with plenary powers, to provide for the settlement of any disputes arising under such legislation by arbitration, or by an industrial accident commission, by the courts, or by either, any, or all of these agencies, either separately or in combination, and may fix and control the method and manner of trial of any such dispute, the rules of evidence and the manner of review of decisions rendered by the tribunal or tribunals designated by it; provided, that all decisions of any such tribunal shall be subject to review by the appellate courts of this State. The Legislature may combine in one statute all the provisions for a complete system of workmen's compensation, as herein defined.

Nothing contained herein shall be taken or construed to impair or render ineffectual in any measure the creation and existence of the Industrial Accident Commission of this State or the State Compensation Insurance Fund, the creation and existence of which, with all the functions vested in them, are hereby ratified and confirmed.<sup>1</sup>

## Colorado

### Constitution of 1876<sup>2</sup>

V. 25a. The General Assembly shall provide by law, and shall prescribe suitable penalties for the violation thereof, for a period of employment not to exceed eight (8) hours within any twenty-four (24) hours (except in cases of emergency where life or property is in imminent danger), for persons employed in underground mines or other underground workings, blast furnaces, smelters; and any ore reduction works or other branch of industry or labour that the General Assembly may consider injurious or dangerous to health, life or limb.<sup>3</sup>

XV. 15. It shall be unlawful for any person, company or corporation, to require of its servants or employees, as a condition of their employment or otherwise, any contract or agreement, whereby such persons, company or corporation shall be released or discharged from liability or responsibility on account of personal injuries received by such servants or employees while in the service of such person, company or corporation, by reason of the negligence of such

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<sup>1</sup> Added by an amendment adopted 10 Oct. 1911, and in turn amended 5 Nov. 1918. *California Statutes*, 1917, p. 1952.

<sup>2</sup> *Constitutions of the States and United States*, New York State Constitutional Convention Committee, 1938, pp. 234-282.

<sup>3</sup> Added by constitutional amendment 4 Nov. 1902. *Colorado Laws*, 1902, p. 108.

person, company or corporation, or the agents or employees thereof, and such contracts shall be absolutely null and void.

XVI. 2. The General Assembly shall provide by law for the proper ventilation of mines, the construction of escapement shafts, and such other appliances as may be necessary to protect the health and secure the safety of the workmen therein; and shall prohibit the employment in the mines of children under twelve years of age.

3. The General Assembly may make such regulations from time to time, as may be necessary for the proper and equitable drainage of mines.

XXIV.<sup>1</sup> 1. A fund to be known as the Old Age Pension Fund is hereby created and established in the treasury of the State of Colorado.

*Secs. 2 to 7 relate to the allocation of revenues to the Fund, the conditions of eligibility for pension, the amount and administration of pensions, etc.*

### Connecticut

Constitution of 1818<sup>2</sup>

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### Delaware

Constitution of 1897<sup>3</sup>

XI. 1. There shall be a department established and maintained, known as the State Board of Agriculture.

5. The said commissioners may devise such plans for securing immigration to this State of industrious and useful settlers as they may deem expedient, and such plans may be executed as prescribed by the General Assembly.

### Florida

Constitution of 1887<sup>4</sup>

XIII. 3. The respective counties of the State shall provide in the manner prescribed by law, for those of the inhabitants who by reason of age, infirmity or misfortune, may have claims upon the aid and sympathy of society; provided, however, the Legislature may by general law provide for a uniform State-wide system for such benefits, and appropriate money therefor; but no such general law shall provide benefits to any person who shall not have been a resident of the State of Florida for a period of five years continuously next preceding his application therefor, nor shall such general law provide for benefits to any person solely

<sup>1</sup> Article XXIV was adopted 3 Nov. 1936, having been proposed by initiative petition. *Colorado Laws*, 1937, c. 200.

<sup>2</sup> *Constitutions of the States and United States*, New York State Constitutional Convention Committee, 1938, pp. 282-298.

<sup>3</sup> *Ibid.*, pp. 298-326.

<sup>4</sup> *Ibid.*, pp. 326-356.

on account of age who has not attained the age of sixty-five years; provided, further, that where by any law of the United States, a lesser or different period of residence, age or citizenship shall be fixed in order for the State of Florida to participate in any Federal grants that might be made for such purposes, the Legislature may prescribe such requirements as to citizenship, age and residence as will be consistent with and not in conflict with such Federal law.

XVI. 22. The Legislature shall provide for giving to mechanics and labourers an adequate lien on the subject matter of their labour.

## Georgia

### Constitution of 1877<sup>1</sup>

VII. 1. (1) The powers of taxation for the whole State shall be exercised by the General Assembly for the following purposes only. . .

To authorise the levy of taxes for, and to make provision for the payment of old-age assistance to aged persons in need, and for the payment of assistance to the needy blind, and to dependent children and other welfare benefits, provided that no person shall be entitled to the assistance herein authorised, who does not qualify for such provisions in every respect, in accordance with enactments of the General Assembly, which may be in force and effect, prescribing the qualifications for beneficiaries hereunder.

. . . . .  
To advertise and promote the agricultural, industrial, historic, recreational and natural resources, facilities and assets of the State of Georgia through any office or agency which may be created or designated by the General Assembly to carry out said purposes.

## Idaho

### Constitution of 1890<sup>2</sup>

XIII. 1. There shall be established a Bureau of Immigration, Labour and Statistics, which shall be under the charge of a Commissioner of Immigration, Labour and Statistics, who shall be appointed by the Governor, by and with the consent of the Senate. . . The Commissioner shall collect information upon the subject of labour, its relation to capital, the hours of labour and the earnings of labouring men and women, and the means of promoting their material, social, intellectual and moral prosperity. . .

2. Not more than eight hours actual work shall constitute a lawful day's work on all State and municipal works, and the Legislature shall pass laws to provide for the health and safety of employees, in factories, smelters, mines and ore reduction works.<sup>3</sup>

4. The employment of children under the age of fourteen years in underground mines is prohibited.

5. No person, not a citizen of the United States or who has not declared his

<sup>1</sup> *Ibid.*, pp.357-424.

<sup>2</sup> *Ibid.*, pp. 425-453.

<sup>3</sup> As amended 4 Nov. 1902. *Idaho Laws*, 1901, p. 311. This amendment became effective 28 Nov. 1902.

intention to become such, shall be employed upon, or in connection with, any State or municipal works.

6. The Legislature shall provide by proper legislation for giving to mechanics, labourers, and material men an adequate lien on the subject matter of their labour.

7. The Legislature may establish boards of arbitration, whose duty it shall be to hear and determine all differences and controversies between labourers and their employers which may be submitted to them in writing by all the parties. Such boards of arbitration shall possess all the powers and authority in respect to administering oaths, subpoenaing witnesses, and compelling their attendance, preserving order during the sittings of the board, punishing for contempt, and requiring the production of papers and writings, and all other powers and privileges, in their nature applicable, conferred by law on justices of the peace.

## Illinois

### Constitution of 1870<sup>1</sup>

IV. 29. It shall be the duty of the General Assembly to pass such laws as may be necessary for the protection of operative miners, by providing for ventilation, when the same may be required, and the construction of escapement shafts, or such other appliances as may secure safety in all coal mines, and to provide for the enforcement of said laws by such penalties and punishment, as may be deemed proper.

### Amendment of 2 November 1886

Hereafter it shall be unlawful for the commissioners of any penitentiary or other reformatory institution in the State of Illinois, to let by contract to any person or persons, or corporations, the labour of any convict confined within said institution.<sup>2</sup>

## Indiana

### Constitution of 1851<sup>3</sup>

I. 36. Emigration from the State shall not be prohibited.

## Iowa

### Constitution of 1857<sup>4</sup>

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<sup>1</sup> *Constitutions of the States and United States*, New York State Constitutional Convention Committee, 1938, pp. 453-482.

<sup>2</sup> Added by an amendment adopted 2 Nov. 1886. *Illinois Laws*, 1885, p. 256.

<sup>3</sup> *Constitutions of the States and United States*, New York State Constitutional Convention Committee, 1938, pp. 482-498.

<sup>4</sup> *Ibid.*, pp. 499-515.



## Kansas

### Constitution of 1861<sup>1</sup>

VII. 4. The respective counties of the State shall provide, as may be prescribed by law, for those inhabitants who, by reason of age, infirmity or other misfortune, may have claims upon the sympathy and aid of society: Provided, however, the State may participate financially in such aid and supervise and control the administration thereof.<sup>2</sup>

5. The State may provide by law for unemployment compensation and contributory old-age benefits and may tax employers and employees therefor; and the restrictions and limitation of section twenty-four<sup>3</sup> of article two, and section one<sup>4</sup> of article eleven of the Constitution shall not be construed to limit the authority conferred by this amendment. No direct ad valorem tax shall be laid on real or personal property for such purposes.

## Kentucky

### Constitution of 1891<sup>5</sup>

24. Emigration from the State shall not be prohibited.

243. The General Assembly shall, by law, fix the minimum ages at which children may be employed in places dangerous to life or health, or injurious to morals; and shall provide adequate penalties for violations of such law.

244. All wage earners in this State employed in factories, mines, workshops, or by corporations shall be paid for their labour in lawful money. The General Assembly shall prescribe adequate penalties for violation of this section.

253. That the Commonwealth of Kentucky may use and employ outside of the walls of the penitentiaries in such manner and means as may be provided by law, persons convicted of felony and sentenced to confinement in the penitentiary for the purpose of constructing or reconstructing and maintaining public roads and public bridges or for the purpose of making and preparing material for public roads and bridges, and that the Commonwealth of Kentucky may, by the use and employment of convict labour outside of the walls of the penitentiary by other ways or means, as may be provided by law, aid the counties for road and bridge purposes, work on the State farm or farms.<sup>6</sup>

<sup>1</sup> *Ibid.*, pp. 516-532.

<sup>2</sup> As amended 3 Nov. 1936. *Kansas Laws*, 1936, Special Sessions, c. 4.

<sup>3</sup> Section 24 of article II is as follows: "(Two-year appropriations.) No money shall be drawn from the Treasury, except in pursuance of a specific appropriation made by law, and no appropriation shall be for a longer term than two years. (As amended 7 Nov. 1876. *Kansas Laws*, 1876, c. 129.)"

<sup>4</sup> Section 1 of article XI is as follows: "(Property taxes.) The Legislature shall provide for a uniform and equal rate of assessment and taxation, except that mineral products, money, mortgages, notes and other evidence of debt may be classified and taxed uniformly as to class as the Legislature shall provide. All property used exclusively for State, county, municipal, literary, educational, scientific, religious, benevolent and charitable purposes, and personal property to the amount of at least two hundred dollars for each family, shall be exempted from taxation. (As amended 4 Nov. 1924. *Kansas Laws*, 1923, c. 255.)"

<sup>5</sup> *Constitutions of the States and United States*, New York State Constitutional Convention Committee, 1938, pp. 533-567.

<sup>6</sup> As amended 2 Nov. 1915. *Kentucky Laws*, 1914, c. 93.

254. The Commonwealth shall maintain control of the discipline, and provide for all supplies, and for the sanitary condition of the convicts, and the labour only of convicts may be leased.

## Louisiana

### Constitution of 1921<sup>1</sup>

III. 33. The Legislature may authorise the employment under State supervision and the proper officers and employees of the State, of convicts on public roads or other public works, or convict farms, or in the manufactories owned or controlled by the State, under such provisions and restrictions as may be imposed by law, and shall enact laws necessary to carry these provisions into effect; and no convict sentenced to the State penitentiary shall ever be leased, or hired to any person or persons, or corporation, private or public, or quasi-public, or board, save as herein authorised.

IV. 7. No law shall be passed fixing the price of manual labour, but the Legislature, through a commission or otherwise, may establish minimum wages for and regulate the hours and working conditions of women and girls, except those engaged in agricultural pursuits or domestic service.

VI. 14. The Legislature is hereby directed to enact laws fostering agriculture and immigration, and preventing the spread of pests and diseases injurious to plants and domestic animals. It may enact laws limiting or prohibiting the cultivation of specified crops in definite zones or areas and providing the necessary funds to compensate for damages caused by such limitations or prohibitions.

XVIII. 5. A mother's pension shall be maintained in the State. Its provisions shall be determined by the Legislature.

7. (1) The Legislature may establish a system of economic security and social welfare, which may provide for the following:

(a) A system of financial assistance to aged needy individuals, who are over the age of 65 years.

(b) A system of unemployment compensation.

(c) A system for the aid and welfare of mothers and children, which may provide:

1. Financial assistance to needy dependent children;

2. For promoting the health of mothers and children, including the care and treatment of crippled children and children who are suffering from conditions which lead to crippling;

3. For the protection and care of homeless, dependent and neglected children, and children in danger of becoming delinquent.

(d) A system of financial assistance to needy individuals who are blind.

(2) The system of pensions provided in sections two, three and six of this article for Confederate Veterans and widows of Confederate Veterans may be merged and consolidated with the system of financial assistance to aged needy individuals herein provided for.

(3) The Legislature may levy taxes and licenses and impose charges and contributions and may provide that the parochial and municipal corporations shall levy taxes and licenses and impose charges and contributions for the purpose of raising funds to carry this section into effect.<sup>2</sup>

<sup>1</sup> *Constitutions of the States and United States*, New York State Constitutional Convention Committee, 1938, pp. 567-698.

<sup>2</sup> Added by an amendment adopted 3 Nov. 1936. *Louisiana Acts*, 1936, No. 61.

## Maine

Constitution of 1820 and 1876<sup>1</sup>

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## Maryland

Constitution of 1867<sup>2</sup>

X. 1. There shall be a Superintendent of Labour and Agriculture elected by the qualified voters of this State . . .

5. He shall enquire into the undeveloped resources of wealth of the State of Maryland, more especially concerning those within the limits of the Chesapeake Bay and its tributaries, which belong to the State, and suggest such plans as may be calculated to render them available as sources of revenue.

## Massachusetts

A Constitution or Form of Government for the Commonwealth, 1790<sup>3</sup>

Amendment XLIII. The General Court shall have power to authorise the Commonwealth to take land and to hold, improve, subdivide, build upon and sell the same, for the purpose of relieving congestion of population and providing homes for citizens; provided, however, that this amendment shall not be deemed to authorise the sale of such land or buildings at less than the cost thereof.<sup>4</sup>

Amendment XLVII. The maintenance and distribution at reasonable rates, during the time of war, public exigency, emergency or distress, of a sufficient supply of food and other common necessities of life and the providing of shelter, are public functions, and the Commonwealth and the cities and towns therein may take and may provide the same for their inhabitants in such manner as the General Court shall determine.<sup>5</sup>

## Michigan

Constitution of 1909<sup>6</sup>

V. 29. The Legislature shall have power to enact laws relative to the hours and conditions under which men, women and children may be employed.<sup>7</sup>

<sup>1</sup> *Constitutions of the States and United States*, New York State Constitutional Convention Committee, 1938, pp. 698-720.

<sup>2</sup> *Ibid.*, pp. 721-766.

<sup>3</sup> *Ibid.*, pp. 767-801.

<sup>4</sup> This article was proposed by the General Court and was approved by the voters, 2 Nov. 1915.

<sup>5</sup> This article was proposed by the Constitutional Convention and was ratified by the voters, 6 Nov. 1917.

<sup>6</sup> *Constitutions of the States and United States*, New York State Constitutional Convention Committee, 1938, pp. 801-827.

<sup>7</sup> As amended Nov. 1920. *Michigan Laws*, 1919, p. 767.

## Minnesota

Constitution of 1857<sup>1</sup>

.....

## Mississippi

Constitution of 1890<sup>2</sup>

VII. 191. The Legislature shall provide for the protection of the employees of all corporations doing business in this State from interference with their social civil, or political rights by said corporations, their agents or employees.

193. *Defines the liability of railroad corporations in respect of injuries to employees.*

XIV. 262. The Board of Supervisors shall have power to provide homes or farms as asylums for those persons who, by reason of age, infirmity or misfortune, may have claims upon the sympathy and aid of society; and the Legislature shall enact suitable laws to prevent abuses by those having the care of such persons.

## Missouri

Constitution of 1875<sup>3</sup>

IV. 47a. Nothing in this Constitution contained shall be construed as prohibiting payments from any public funds, into a fund or funds, for paying benefits upon retirement, disability, or death, to persons employed and paid out of any public fund, for educational services, their beneficiaries, or their estates.<sup>4</sup>

48a. The General Assembly shall have the power to provide by law, or to authorise any municipality in this State to provide by ordinance, for the pensioning of members of any organised police force and the widows and minor children of deceased members thereof; and nothing in this Constitution contained shall prohibit, or be construed to prohibit, the exercise of such power or authority by the General Assembly.<sup>5</sup>

## Montana

Constitution of 1889<sup>6</sup>

X. 5. The several counties of the State shall provide as may be prescribed by law for those inhabitants, who, by reason of age, infirmity or misfortune, may have claims upon the sympathy and aid of society.

XV. 16. It shall be unlawful for any person, company or corporation to

<sup>1</sup> *Constitutions of the States and United States*, New York State Constitutional Convention Committee, 1938, pp. 828-860.

<sup>2</sup> *Ibid.*, pp. 860-892.

<sup>3</sup> *Ibid.*, pp. 892-943.

<sup>4</sup> As amended 3 Nov. 1936. *Missouri Laws*, 1937, p. 614.

<sup>5</sup> Added by an amendment adopted 2 Nov. 1926. This amendment was proposed by popular initiative. *Missouri Laws*, 1927, p. 525.

<sup>6</sup> *Constitutions of the States and United States*, New York State Constitutional Convention Committee, 1938, pp. 944-982.

require of its servants or employees, as a condition of their employment or otherwise, any contract or agreement whereby such persons, company or corporation, shall be released or discharged from liability or responsibility on account of personal injuries received by such servants or employees while in the service of such person, company or corporation, by reason of negligence of such person, company or corporation, or the agents or employees thereof; and such contracts shall be absolutely null and void.

XVIII. 2. It shall be unlawful for the warden or other officer of any State penitentiary or reformatory institution in the State of Montana, or for any State officer to let by contract to any person or persons or corporation the labour of any convict confined within said institutions.

3. It shall be unlawful to employ children under the age of sixteen years of age in underground mines.<sup>1</sup>

4. A period of eight hours shall constitute a day's work in all industries, occupations, undertakings and employments, except farming and stock raising; provided, however, that the Legislative Assembly may by law reduce the number of hours constituting a day's work whenever in its opinion a reduction will better promote the general welfare, but it shall have no authority to increase the number of hours constituting a day's work beyond that herein provided.<sup>2</sup>

5. The Legislature by appropriate legislation shall provide for the enforcement of the provisions of this article.<sup>3</sup>

## Nebraska

### Constitution of 1875<sup>4</sup>

XV. 8. Laws may be enacted regulating the hours and conditions of employment of women and children, and securing to such employees a proper minimum wage.<sup>5</sup>

9. Laws may be enacted providing for the investigation, submission and determination of controversies between employers and employees in any business or vocation affected with a public interest, and for the prevention of unfair business practices and unconscionable gains in any business or vocation affecting the public welfare. An industrial commission may be created for the purpose of administering such laws, and appeals shall lie to the Supreme Court from the final orders and judgments of such commission.<sup>6</sup>

## Nevada

### Constitution of 1864<sup>7</sup>

XIII. 3. The respective counties of the State shall provide, as may be prescribed by law, for those inhabitants who, by reason of age and infirmity, or misfortunes, may have claim upon the sympathy and aid of society.

<sup>1</sup> Added by an amendment adopted 8 Nov. 1904. *Montana Laws*, 1903, c. 49.

<sup>2</sup> *Ibid.* This section was amended 3 Nov. 1936.

<sup>3</sup> Added by an amendment adopted 8 Nov. 1904. *Montana Laws*, 1903, c. 49.

<sup>4</sup> *Constitutions of the States and United States*, New York State Constitutional Convention Committee, 1938, pp. 982-1006.

<sup>5</sup> As amended 21 Sept. 1920.

<sup>6</sup> *Ibid.*

<sup>7</sup> *Constitutions of the States and United States*, New York State Constitutional Convention Committee, 1938, pp. 1007-1033.

## New Hampshire

Constitution of 1784<sup>1</sup>

. . . . .

## New Jersey

Constitution of 1844<sup>2</sup>

. . . . .

## New Mexico

Constitution of 1912<sup>3</sup>

XVII. 2. The Legislature shall enact laws requiring the proper ventilation of mines, the construction and maintenance of escapement shafts or slopes, and the adoption and use of appliances necessary to protect the health and secure the safety of employees therein. No children under the age of fourteen years shall be employed in mines.

XX. 10. The Legislature shall enact suitable laws for the regulation of the employment of children.

15. The penitentiary is a reformatory and an industrial school, and all persons confined therein shall, so far as consistent with discipline and the public interest, be employed in some beneficial industry; and where a convict has a dependent family his net earnings shall be paid to said family if necessary for their support.

16. *Defines the liability of railroad corporations in respect of injuries to employees.*

18. The leasing of convict labour by the State is hereby prohibited.

19. Eight hours shall constitute a day's work in all cases of employment by and on behalf of the State or any county or municipality thereof.

XXII. (Schedule) 2. Until otherwise provided by law, the Act of Congress of the United States, entitled, "An Act relating to the liability of common carriers, by railroads to their employees in certain cases", approved April twenty-second, nineteen hundred and eight, and all acts amendatory thereof, shall be and remain in force in this State to the same extent that they have been in force in the Territory of New Mexico.

3. Until otherwise provided by law, the act of Congress, entitled, "An Act for the protection of the lives of miners", approved March third, eighteen hundred and ninety-one, and all acts amendatory thereof, shall be and remain in force in this State to the same extent that they have been in force in the Territory of New Mexico; the words, "Governor of the State", are hereby substituted for the words "Governor of such organised Territory", and for the words "Secretary of the Interior" whenever the same appears in said acts; and the chief mine inspector, for the Territory of New Mexico, appointed by the President of the United States,

<sup>1</sup> *Constitutions of the States and United States*, New York State Constitutional Convention Committee, 1938, pp. 1033-1050.

<sup>2</sup> *Ibid.*, pp. 1050-1063.

<sup>3</sup> *Ibid.*, pp. 1064-1095.

is hereby authorised to perform the duties prescribed by said acts until superseded by the "inspector of mines" appointed by the Governor, as elsewhere provided by the Constitution, and he shall receive the same compensation from the State as he received from the United States.

## New York

Constitution, Approved 8 November 1938, as Amended  
and in Force 1 January 1941<sup>1</sup>

I. 11. No person shall be denied the protection of the laws of this State or any sub-division thereof. No person shall, because of race, colour, creed or religion, be subjected to any discrimination in his civil rights by any other person or by any firm, corporation or institution, or by the State or any agency or sub-division of the State.

16. The right of action now existing to recover damages for injuries resulting in death, shall never be abrogated; and the amount recoverable shall not be subject to any statutory limitation.

17. Labour of human beings is not a commodity nor an article of commerce and shall never be so considered or construed.

No labourer, workman or mechanic, in the employ of a contractor or sub-contractor engaged in the performance of any public work, shall be permitted to work more than eight hours in any day or more than five days in any week, except in cases of extraordinary emergency; nor shall he be paid less than the rate of wages prevailing in the same trade or occupation in the locality within the State where such public work is to be situated, created or used.

Employees shall have the right to organise and to bargain collectively through representatives of their own choosing.

18. Nothing contained in this Constitution shall be construed to limit the power of the Legislature to enact laws for the protection of the lives, health, or safety of employees; or for the payment, either by employers, or by employers and employees or otherwise, either directly or through a State or other system of insurance or otherwise, of compensation for injuries to employees or for death of employees resulting from such injuries without regard to fault as a cause thereof, except where the injury is occasioned by the wilful intention of the injured employee to bring about the injury or death of himself or of another, or where the injury results solely from the intoxication of the injured employee while on duty; or for the adjustment, determination and settlement, with or without trial by jury, of issues which may arise under such legislation; or to provide that the right of such compensation, and the remedy therefor shall be exclusive of all other rights and remedies for injuries to employees or for death resulting from such injuries; or to provide that the amount of such compensation for death shall not exceed a fixed or determinable sum; provided that all moneys paid by an employer to his employees or their legal representatives, by reason of the enactment of any of the laws herein authorised, shall be held to be a proper charge in the cost of operating the business of the employer.

III. 24. The Legislature shall, by law, provide for the occupation and employment of prisoners sentenced to the several State prisons, penitentiaries, jails and reformatories in the State; and no person in any such prison, penitentiary, jail or reformatory, shall be required or allowed to work, while under sentence thereto, at any trade, industry or occupation, wherein or whereby his work, or the product or profit of his work, shall be farmed out, contracted, given or sold to

<sup>1</sup> *The New York Red Book*, 1941, pp. 655-733.

any person, firm, association or corporation. This section shall not be construed to prevent the Legislature from providing that convicts may work for, and that the products of their labour may be disposed of to, the State or any political division thereof, or for or to any public institution owned or managed and controlled by the State or any political division thereof.

IX. 9. . . . . and the Legislature may regulate and fix the wages or salaries, the hours of work or labour, and make provision for the protection, welfare and safety of persons employed by the State, or by any county, city, town, village or other civil division of the State, or by any contractor or sub-contractor performing work, labour or services for the State, or for any county, city, town, village or other civil division thereof.

XVII. 1. The aid, care and support of the needy are public concerns and shall be provided by the State and by such of its sub-divisions, and in such manner and by such means, as the Legislature may from time to time determine.

3. The protection and promotion of the health of the inhabitants of the State are matters of public concern and provision therefor shall be made by the State and by such of its sub-divisions and in such manner and by such means as the Legislature shall from time to time determine.

XVIII. 1. Subject to the provisions of this article, the Legislature may provide in such manner, by such means and upon such terms and conditions as it may prescribe for low-rent housing for persons of low income as defined by law, or for the clearance, replanning, reconstruction and rehabilitation of sub-standard and unsanitary areas, or for both such purposes, and for recreational and other facilities incidental or appurtenant thereto.

## North Carolina

### Constitution of 1876<sup>1</sup>

XI. 1. The following punishments only shall be known to the laws of this State, *viz*: death, imprisonment with or without hard labour, fines, removal from office, and disqualification to hold and enjoy any office of honour, trust, or profit under this State. The foregoing provision for imprisonment with hard labour shall be construed to authorise the employment of such convict labour on public works or highways, or other labour for public benefit, and the farming out thereof, where and in such manner as may be provided by law; but no convict shall be farmed out who has been sentenced on a charge of murder, manslaughter, rape, attempt to commit rape, or arson; provided, that no convict whose labour may be farmed out shall be punished for any failure of duty as a labourer, except by a responsible officer of the State; but the convicts so farmed out shall be at all times under the supervision and control, as to their government and discipline, of the penitentiary board or some officer of this State.

XIV. 4. The General Assembly shall provide, by proper legislation, for giving to mechanics and labourers an adequate lien on the subject matter of their labour.

## North Dakota

### Constitution of 1889<sup>2</sup>

1. 23. Every citizen of this State shall be free to obtain employment wherever

<sup>1</sup> *Constitutions of the States and United States*, New York State Constitutional Convention Committee, 1938, pp. 1136-1154.

<sup>2</sup> *Ibid.*, pp. 1155-1191.



possible, and any person, corporation, or agent thereof, maliciously interfering or hindering in any way, any citizen from obtaining or enjoying employment already obtained, from any other corporation or person, shall be deemed guilty of a misdemeanour.

XVII. 209. The labour of children under twelve years of age, shall be prohibited in mines, factories and workshops in this State.

212. The exchange of "black lists" between corporations shall be prohibited.

## Ohio

### Constitution of 1851<sup>1</sup>

II. 33. Laws may be passed to secure to mechanics, artisans, labourers, sub-contractors and material men, their just dues by direct lien upon the property, upon which they have bestowed labour or for which they have furnished material. No other provision of the Constitution shall impair or limit this power.<sup>2</sup>

34. Laws may be passed fixing and regulating the hours of labour, establishing a minimum wage, and providing for the comfort, health, safety and general welfare of all employees; and no other provision of the Constitution shall impair or limit this power.<sup>2</sup>

35. For the purpose of providing compensation to workmen and their dependants, for death, injuries or occupational disease, occasioned in the course of such workmen's employment, laws may be passed establishing a State fund to be created by compulsory contribution thereto by employers, and administered by the State, determining the terms and conditions upon which payment shall be made therefrom. Such compensation shall be in lieu of all other rights to compensation, or damages, for such death, injuries, or occupational disease, and any employer who pays the premium or compensation provided by law, passed in accordance herewith, shall not be liable to respond in damages at common law or by statute for such death, injuries or occupational disease. Laws may be passed establishing a board which may be empowered to classify all occupations, according to their degree of hazard, to fix rates of contribution to such fund according to such classification, and to collect, administer and distribute such fund, and to determine all rights of claimants thereto. Such board shall set aside as a separate fund such proportion of the contributions paid by employers as in its judgment may be necessary, not to exceed one per centum thereof in any year, and so as to equalise, in so far as possible, the burden thereof, to be expended by such board in such manner as may be provided by law for the investigation and prevention of industrial accidents and diseases. Such board shall have full power and authority to hear and determine whether or not an injury, disease or death resulted because of the failure of the employer to comply with any specific requirement for the protection of the lives, health or safety of employees, enacted by the General Assembly or in the form of an order adopted by such board, and its decision shall be final; and for the purpose of such investigations and enquiries it may appoint referees. When it is found, upon hearing, that an injury, disease or death resulted because of such failure by the employer, such amount as shall be found to be just, not greater than fifty nor less than fifteen per centum of the maximum award established by law, shall be added by the board, to the amount of the compensation that may be awarded on account of such injury, disease, or death, and paid in like manner as other awards; and, if such compensation is paid from the State

<sup>1</sup> *Ibid.*, pp. 1192-1224.

<sup>2</sup> Added by an amendment proposed by the Constitutional Convention and adopted 3 Sept. 1912.

fund, the premium of such employer shall be increased in such amount, covering such period of time as may be fixed, as will recoup the State fund in the amount of such additional award, notwithstanding any and all other provisions in this Constitution.<sup>1</sup>

. . . . .

37. Except in cases of extraordinary emergency, not to exceed eight hours shall constitute a day's work, and not to exceed forty-eight hours a week's work, for workmen engaged on any public work carried on or aided by the State, or any political sub-division thereof, whether done by contract, or otherwise.<sup>2</sup>

41. Laws shall be passed providing for the occupation and employment of prisoners sentenced to the several penal institutions and reformatories in the State; and no person in any such penal institution or reformatory while under sentence thereto, shall be required or allowed to work at any trade, industry or occupation, wherein or whereby his work, or the product or profit of his work, shall be sold, farmed out, contracted or given away; and goods made by persons under sentence to any penal institution or reformatory without the State of Ohio, and such goods made within the State of Ohio, excepting those disposed of to the State or any political sub-division thereof, or to any public institution, owned, managed or controlled by the State or any political sub-division thereof, shall not be sold within this State unless the same are conspicuously marked "prison made". Nothing herein contained shall be construed to prevent the passage of laws providing that convicts may work for, and that the products of their labour may be disposed of to, the State or any political sub-division thereof, or for, or to any public institution owned or managed or controlled by the State or any political sub-division thereof.<sup>3</sup>

## Oklahoma

### Constitution of 1907<sup>4</sup>

II. 31. The right of the State to engage in any occupation or business for public purposes shall not be denied nor prohibited, except that the State shall not engage in agriculture for any other than educational and scientific purposes and for the support of its penal, charitable and educational institutions.

V. 48. The Legislature shall have no power to appropriate any of the public money for the establishment and maintenance of a Bureau of Immigration in this State.

VI. 20. A Department of Labour is hereby created to be under the control of a Commissioner of Labour who shall be elected by the people, whose term of office shall be four years, and whose duties shall be prescribed by law.

21. The Legislature shall create a Board of Arbitration and Conciliation in the Department of Labour and the Commissioner of Labour shall be ex-officio chairman.

IX. 36. The common law doctrine of the fellow-servant, so far as it affects the liability of the master for injuries to his servant, resulting from the acts or omissions of any other servant or servants of the common master, is abrogated as to every employee of every railroad company and every street railway company

<sup>1</sup> Added by an amendment adopted 5 Nov. 1923.

<sup>2</sup> Added by an amendment proposed by the Constitutional Convention and adopted 3 Sept. 1912.

<sup>3</sup> As amended 13 Oct. 1885.

<sup>4</sup> *Constitutions of the States and United States*, New York State Constitutional Convention Committee, 1938, pp. 1224-1298.

or interurban railway company, and of every person, firm, or corporation engaged in mining in this State; . . .

Nothing contained in this section shall restrict the power of the Legislature to extend to the employees of any person, firm, or corporation, the rights and remedies herein provided for.

42. Every license issued or charter granted to a mining or public service corporation, foreign or domestic, shall contain a stipulation that such corporation will submit any difference it may have with employees in reference to labour, to arbitration, as shall be provided by law.

XXIII. 1. Eight hours shall constitute a day's work in all cases of employment by and on behalf of the State or any county or any municipality.

2. The contracting of convict labour is hereby prohibited.

3. The employment of children, under the age of fifteen years, in any occupation injurious to health or morals or specially hazardous to life or limb, is hereby prohibited.

4. Boys under the age of sixteen years, and women and girls, shall not be employed, underground, in the operation of mines; and, except in cases of emergency, eight hours shall constitute a day's work underground in all mines of the State.

5. The Legislature shall pass laws to protect the health and safety of employees in factories, in mines, and on railroads.

6. The defence of contributory negligence or of assumption of risk shall, in all cases whatsoever, be a question of fact, and shall at all times, be left to the jury.

7. The right of action to recover damages for injuries resulting in death shall never be abrogated, and the amount recoverable shall not be subject to any statutory limitation.

8. Any provision of a contract, express or implied, made by any person, by which any of the benefits of this Constitution, is sought to be waived, shall be null and void.

9. Any provision of any contract or agreement, express or implied, stipulating for notice or demand other than such as may be provided by law, as a condition precedent to establish any claim, demand, or liability, shall be null and void.

XXV. 1. In order to promote the general welfare of the people of the State of Oklahoma and for their protection, security, and benefit, the Legislature and the people by initiative petition are hereby authorised to provide by appropriate legislation for the relief and care of needy aged persons who are unable to provide for themselves, and other needy persons who, on account of immature age, physical infirmity, disability, or other cause, are unable to provide or care for themselves. No law enacted under the authority herein contained shall grant assistance (including the amount contributed by the Federal Government) to a needy aged person which, when added to his income from other sources, exceeds thirty (\$30) dollars per month.

The levy of taxes necessary to carry into effect legislation enacted pursuant hereto, is hereby authorised.<sup>1</sup>

2. For the purpose of effectively administering and carrying into execution all laws enacted pursuant to the authority granted in section one hereof, there is hereby created a Department of Public Welfare. Said Department of Public Welfare is hereby charged with the duty and responsibility of faithfully administering and carrying into execution all laws enacted pursuant to the authority granted in section one hereof and shall perform such other duties as may, from time to time, be prescribed by law.<sup>2</sup>

<sup>1</sup>Article XXV was added by an amendment adopted 7 July 1936. Initiative petition number 154.

<sup>2</sup>*Ibid.*

3. The Department of Public Welfare shall be under the control of a commission to be known as the Oklahoma Public Welfare Commission, composed of nine members appointed by the Governor and selected on the basis of recognised interest in and knowledge of the problems of public welfare. . .

## Oregon

### Constitution of 1859<sup>1</sup>

I. 30. No law shall be passed prohibiting emigration from the State.

## Pennsylvania

### Constitution of 1874<sup>2</sup>

I. 25. Emigration from the State shall not be prohibited.

III. 21. The General Assembly may enact laws requiring the payment by employers, or employers and employees jointly, of reasonable compensation for injuries to employees arising in the course of their employment, and for occupational diseases of employees, whether or not such injuries or diseases result in death, and regardless of fault of employer or employee, and fixing the basis of ascertainment of such compensation and the maximum and minimum limits thereof, and providing special or general remedies for the collection thereof; but in no other cases shall the General Assembly limit the amount to be recovered for injuries resulting in death, or for injuries to persons or property, and in case of death from such injuries, the right of action shall survive, and the General Assembly shall prescribe for whose benefit such actions shall be prosecuted. No act shall prescribe any limitations of time within which suits may be brought against corporations for injuries to persons or property, or for other causes different from those fixed by general laws regulating actions against natural persons, and such acts now existing are avoided.<sup>3</sup>

## Rhode Island

### Constitution of 1843<sup>4</sup>

. . . . .

## South Carolina

### Constitution of 1895<sup>5</sup>

V. 33. Circuit courts and all courts inferior thereto and municipal courts

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<sup>1</sup> *Constitutions of the States and United States*, New York State Constitutional Convention Committee, 1938, pp. 1298-1324.

<sup>2</sup> *Ibid.*, pp. 1325-1356.

<sup>3</sup> As amended 2 Nov. 1915. *Pennsylvania Laws*, 1915, p. 1103.

<sup>4</sup> *Constitutions of the States and United States*, New York State Constitutional Convention Committee, 1938, pp. 1356-1368.

<sup>5</sup> *Ibid.*, pp. 1369-1431.

shall have the power, in their discretion, to impose sentence of labour upon highways, streets and other public works upon persons by them sentenced to imprisonment.

IX. 15. *Defines the liability of railroad corporations in respect of injuries to employees.*

XII. 6. All convicts sentenced to hard labour by any of the courts in this State may be employed upon the public works of the State or of the counties and upon the public highways.

9. The penitentiary and the convicts thereto sentenced shall forever be under the supervision and control of officers employed by the State; and in case any convicts are hired or farmed out, as may be provided by law, their maintenance, support, medical attendance and discipline shall be under the direction of officers detailed for those duties by the authorities of the penitentiary.

## South Dakota

### Constitution of 1889<sup>1</sup>

XIII. 17. The State may establish and maintain a system of credits for assisting in the building of homes by the people of the State, and therefor may loan money and extend credit to the people of the State upon real estate security in such manner and upon such terms and conditions as may be prescribed by general law. The limitations and provisions regarding the incurring of indebtedness elsewhere found in the Constitution shall not apply to this section but the Legislature shall, at the time of incurring any indebtedness hereunder, provide for discharging same.<sup>2</sup>

## Tennessee

### Constitution of 1870<sup>3</sup>

II. 30. No article manufactured of the produce of this State, shall be taxed otherwise than to pay inspection fees.

## Texas

### Constitution of 1876<sup>4</sup>

III. 51a. *Gives power to issue bonds the proceeds of which are to be used for the relief of unemployment.*<sup>5</sup>

51b. *Gives power to provide for old-age assistance.*<sup>6</sup>

The Legislature shall have the authority to accept from the Government of the United States such financial aid for old-age assistance as that Government may offer not inconsistent with the restrictions hereinbefore provided.

<sup>1</sup> *Ibid.*, pp. 1432-1472.

<sup>2</sup> Added by an amendment adopted 2 Nov. 1920. *South Dakota Laws*, 1920, Special Session, c. 35.

<sup>3</sup> *Constitutions of the States and United States*, New York State Constitutional Convention Committee, 1938, pp. 1472-1489.

<sup>4</sup> *Ibid.*, pp. 1489-1537.

<sup>5</sup> Added by an amendment adopted 26 Aug. 1933. *Texas Laws*, 1933, p. 981.

<sup>6</sup> Added by an amendment adopted 24 Aug. 1935. *Texas Laws*, Vol. II, 1935, p. 12.

51c. *Gives power to provide for assistance to the needy blind.*<sup>1</sup>

The Legislature shall have the authority to accept from the Government of the United States such financial aid for assistance to the needy blind as that Government may offer not inconsistent with the restrictions hereinabove provided.

51d. *Gives power to provide for assistance to destitute children.*

The Legislature shall have the authority to accept from the Government of the United States such financial assistance to destitute children as that Government may offer not inconsistent with the restriction hereinabove provided.<sup>2</sup>

XVI. 24. The Legislature shall make provision for laying out and working public roads, for the building of bridges, and for utilising fines, forfeitures, and convict labour to all these purposes.

28. No current wages for personal service shall ever be subject to garnishment.

35. The Legislature shall, at its first session pass laws to protect labourers on public buildings, streets, roads, railroads, canals, and other similar public works, against the failure of contractors, and sub-contractors to pay their current wages when due, and to make the corporation, company or individual for whose benefit the work is done responsible for their ultimate payment.

37. Mechanics, artisans and material men, of every class, shall have a lien upon the buildings and articles made or repaired by them for the value of their labour done thereon, or material furnished therefor; and the Legislature shall provide by law for the speedy and efficient enforcement of said liens.

56. The Legislature shall have no power to appropriate any of the public money for the establishment and maintenance of a Bureau of Immigration, or for any purpose of bringing immigrants to this State.

## Utah

### Constitution of 1895<sup>3</sup>

XII. 19. Every person in this State shall be free to obtain employment whenever possible, and any person, corporation, or agent, servant or employee thereof, maliciously interfering or hindering in any way, any person from obtaining or enjoying employment already obtained, from any other corporation or person, shall be deemed guilty of a crime. The Legislature shall provide by law for the enforcement of this section.

XVI. 1. The rights of labour shall have just protection through laws calculated to promote the industrial welfare of the State.

2. The Legislature shall provide by law, for a board of labour, conciliation and arbitration, which shall fairly represent the interests of both capital and labour. The board shall perform duties, and receive compensation as prescribed by law.

3. The Legislature shall prohibit:

(1) The employment of women, or of children under the age of fourteen years, in underground mines.

(2) The contracting of convict labour.

(3) The labour of convicts outside prison grounds, except on public works under the direct control of the State.

(4) The political and commercial control of employees.

<sup>1</sup> Added by an amendment adopted 23 Aug. 1937. *Texas Laws, 1937*, Senate Joint Resolution, No. 26.

<sup>2</sup> As amended 23 Aug. 1937. *Texas Laws, 1937*, Senate Joint Resolution, No. 26A.

<sup>3</sup> *Constitutions of the States and United States*, New York State Constitutional Convention Committee, 1938, pp. 1538-1565.

4. The exchange of black lists by railroad companies, or other corporations, associations or persons is prohibited.

5. The right of action to recover damages for injuries resulting in death, shall never be abrogated, and the amount recoverable shall not be subject to any statutory limitation, except in cases where compensation for injuries resulting in death is provided for by law.<sup>1</sup>

6. Eight hours shall constitute a day's work on all works or undertakings carried on or aided by the State, county or municipal Governments; and the Legislature shall pass laws to provide for the health and safety of employees in factories, smelters and mines.

7. The Legislature, by appropriate legislation, shall provide for the enforcement of the provisions of this article.

8. The Legislature may, by appropriate legislation provide for the establishment of a minimum wage for women and minors and may provide for the comfort, safety and general welfare of any and all employees. No provision of this Constitution shall be construed as a limitation upon the authority of the Legislature to confer upon any commission now or hereafter created such power and authority as the Legislature may deem requisite to carry out the provisions of this section.<sup>2</sup>

## Vermont

### Constitution of 1793<sup>3</sup>

#### CHAPTER I

##### *A Declaration of the Rights of the Inhabitants of the State of Vermont*

19. That all people have a natural and inherent right to emigrate from one State to another that will receive them.

#### CHAPTER II

##### *Plan or Frame of Government*

Sec. 66. The General Assembly may pass laws compelling compensation for injuries received by employees in the course of their employment resulting in death or bodily hurt, for the benefit of such employees, their widows or next of kin. It may designate the class or classes of employers and employees to which such laws shall apply.<sup>4</sup>

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<sup>1</sup> As amended 2 Nov. 1920.

<sup>2</sup> As amended 7 Nov. 1933.

<sup>3</sup> *Constitutions of the States and United States*, New York State Constitutional Convention Committee, 1938, pp. 1566-1578.

<sup>4</sup> As amended. This amendment was proposed by the General Assembly (1911), concurred in (1913), and ratified by the voters 4 Mar. 1913.

## Virginia

### Constitution of 1902<sup>1</sup>

I. *Bill of Rights*. A declaration of rights made by the good people of Virginia in the exercise of their sovereign powers, which rights do pertain to them and their posterity, as the basis and foundation of Government.<sup>2</sup>

1. That all men are by nature equally free and independent and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divert their posterity, namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

2. That all power is vested in, and consequently derived from the people; that magistrates are their trustees and servants, and at all times amenable to them.

3. That Government is, or ought to be, instituted for the common benefit, protection and security of the people, nation or community; of all the various modes and forms of Government, that is best which is capable of producing the greatest degree of happiness and safety, and is most effectually secured against the danger of maladministration; and, whenever any Government shall be found inadequate or contrary to these purposes, a majority of the community hath an indubitable, inalienable, and indefensible right to reform, alter or abolish it, in such manner as shall be judged most conducive to the public weal.

4. That no man, or set of men, is entitled to exclusive or separate emoluments or privileges from the community, but in consideration of public services; which not being descendible, neither ought the offices of magistrate, legislator or judge to be hereditary.

5. That the legislative, executive and judicial departments of the State should be separate and distinct; and that the members thereof may be restrained from oppression, by feeling and participating the burthens of the people, they should, at fixed periods, be reduced to a private station, return into that body from which they were originally taken, and the vacancies be supplied by regular elections, in which all or any part of the former members shall be again eligible, or ineligible, as the laws may direct.

6. That all elections ought to be free; and that all men having sufficient evidence of permanent common interest with, and attachment to, the community, have the right of suffrage, and cannot be taxed, or deprived of, or damaged in, their property for public uses, without their own consent, or that of their representatives duly elected, or bound by any law to which they have not, in like manner, assented for the public good.

7. That all power of suspending laws, or the execution of laws, by any authority, without consent of the representatives of the people, is injurious to their rights and ought not to be exercised.

8. That in criminal prosecutions a man hath a right to demand the cause and nature of his accusation, to be confronted with the accusers and witnesses, to call for evidence in his favour, and to a speedy trial by an impartial jury of his vicinage, without whose unanimous consent he cannot be found guilty. He shall not to be deprived of life or liberty, except by the law of the land or the judgment of his peers; nor be compelled in any criminal proceeding to give evidence against himself, nor be put twice in jeopardy for the same offence.

Laws may be enacted providing for the trial of offences not felonious by

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<sup>1</sup> *Constitutions of the States and United States*, New York State Constitutional Convention Committee, 1938, pp. 1578-1626.

<sup>2</sup> As amended 19 June 1928.



a justice of the peace or other inferior tribunal without a jury, preserving the right of the accused to an appeal to and a trial by jury in some court of record having original criminal jurisdiction. Laws may also provide for juries consisting of less than twelve, but not less than five, for the trial of offences not felonious, and may classify such cases, and prescribe the number of jurors for each class.

In criminal cases, the accused may plead guilty; and, if the accused plead not guilty, with his consent and the concurrence of the Commonwealth's attorney and of the court entered of record, he may be tried by a smaller number of jurors, or waive a jury. In case of such waiver, or plea of guilty, the court shall try the case.<sup>1</sup>

9. That excessive bail ought not to be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

10. That general warrants, whereby an officer or messenger may be commanded to search suspected places without evidence of a fact committed, or to seize any person or persons not named, or whose offence is not particularly described and supported by evidence are grievous and oppressive, and ought not to be granted.

11. That no person shall be deprived of his property without due process of law; and in controversies respecting property, and in suits between man and man, trial by jury is preferable to any other, and ought to be held sacred. The General Assembly may limit the number of jurors for civil cases in courts of record to not less than five in cases cognisable by justices of the peace, or to not less than seven in cases not cognisable.<sup>2</sup>

12. That the freedom of the press is one of the great bulwarks of liberty, and can never be restrained but by despotic Governments; and any citizen may freely speak, write and publish his sentiments on all subjects, being responsible for the abuse of that right.

13. That a well regulated militia, composed of the body of the people, trained to arms, is the proper, natural and safe defence of a free State; that standing armies, in time of peace, should be avoided as dangerous to liberty; and that in all cases the military should be under strict subordination to, and governed by, the civil power.

14. That the people have a right to uniform Government; and, therefore, that no Government separate from, or independent of, the Government of Virginia, ought to be erected or established within the limits thereof.

15. That no free Government or the blessings of liberty can be preserved to any people, but by a firm adherence to justice, moderation, temperance, frugality and virtue, and by frequent recurrence to fundamental principles.

16. That religion or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and, therefore, all men are equally entitled to the free exercise of religion, according to the dictates of conscience; and that it is the mutual duty of all to practice Christian forbearance, love and charity towards each other.

17. The rights enumerated in this bill of rights shall not be construed to limit other rights of the people not therein expressed.

XII. 162. The doctrine of fellow-servant, so far as it affects the liability of the master for injuries to his servant, resulting from the acts or omissions of any other servant or servants of the common master, is, to the extent hereinafter stated, abolished as to every employee of a railroad company, engaged in the physical construction, repair or maintenance of its roadway, track or any of the structures connected therewith, or in any work in or upon a car or engine standing upon a track, or in the physical operation of a train, car, engine, or switch, or in any service requiring his presence upon a train, car or engine; . . . Nothing

<sup>1</sup> As amended 19 June 1928.

<sup>2</sup> *Ibid.*

contained in this section shall restrict the power of the General Assembly to further enlarge, for the above-named class of employees, the rights and remedies hereinbefore provided for, or to extend such rights and remedies to, or otherwise enlarge the present rights and remedies of any other class of employees of railroads or of employees of any person, firm or corporation.

## **Washington**

### Constitution of 1889<sup>1</sup>

II. 29. After the first day of January eighteen hundred and ninety the labour of convicts of this State shall not be let out by contract to any person, co-partnership, company or corporation, and the Legislature shall by law provide for the working of convicts for the benefit of the State.

35. The Legislature shall pass necessary laws for the protection of persons working in mines, factories and other employments dangerous to life or deleterious to health; and fix pains and penalties for the enforcement of same.

## **West Virginia**

### Constitution of 1872<sup>2</sup>

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## **Wisconsin**

### Constitution of 1848<sup>3</sup>

. . . . .

## **Wyoming**

### Constitution of 1889<sup>4</sup>

I. 22. The rights of labour shall have just protection through laws calculated to secure to the labourer proper rewards for his service and to promote the industrial welfare of the State.

IX. 2. The Legislature shall provide by law for the proper development, ventilation, drainage and operation of all mines in this State.

3. No boy under the age of fourteen years and no woman or girl of any age shall be employed or permitted to be in or about any coal, iron or other dangerous mines for the purpose of employment therein; provided, however, this provision shall not affect the employment of a boy or female of suitable age in an office or in the performance of clerical work at such mine or colliery.

4. For any injury to person or property caused by wilful failure to comply with the provisions of this article, or laws passed in pursuance hereof, a right

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<sup>1</sup> *Constitutions of the States and United States*, New York State Constitutional Convention Committee, 1938, pp. 1626-1657.

<sup>2</sup> *Ibid.*, pp. 1657-1688.

<sup>3</sup> *Ibid.*, pp. 1688-1710.

<sup>4</sup> *Ibid.*, pp. 1710-1740.

of action shall accrue to the party injured, for the damage sustained thereby, and in all cases in this State, whenever the death of a person shall be caused by wrongful act, neglect or default, such as would, if death had not ensued, have entitled the party injured to maintain an action to recover damages in respect thereof, the person who, or the corporation which would have been liable, if death had not ensued, shall be liable to an action for damages notwithstanding the death of the person injured, and the Legislature shall provide by law at its first session for the manner in which the right of action in respect thereto shall be enforced.

X. 4. No law shall be enacted limiting the amount of damage to be recovered for causing the injury or death of any person. Any contract or agreement with any employee waiving any right to recover damages for causing the death or injury of any employee shall be void. As to all extra-hazardous employments the Legislature shall provide by law for the accumulation and maintenance of a fund or funds out of which shall be paid compensation as may be fixed by law according to proper classifications to each person injured in such employment or to the dependent families of such as die as the result of such injuries, except in case of injuries due solely to the culpable negligence of the injured employee. Such fund or funds shall be accumulated, paid into the State treasury and maintained in such manner as may be provided by law. The right of each employee to compensation from such fund shall be in lieu of and shall take the place of any and all rights of action against any employer contributing as required by law to such fund in favour of any person or persons by reason of any such injuries or death.<sup>1</sup>

10. The Legislature shall provide by suitable legislation for the organisation of mutual and co-operative associations or corporations.

XIX. 2. Eight hours actual work shall constitute a lawful day's work in all mines, and on all State and municipal works.

3. No person not a citizen of the United States or who has not declared his intention to become such, shall be employed upon or in connection with any State, county, or municipal works or employment.

4. The Legislature shall, by appropriate legislation, see that the provisions of the foregoing section are enforced.

5. The Legislature shall establish courts of arbitration, whose duty it shall be to hear, and determine all differences, and controversies between organisations or associations of labourers, and their employers, which shall be submitted to them in such manner as the Legislature may provide.

7. It shall be unlawful for any person, company or corporation, to require of its servants or employees as a condition of their employment, or otherwise, any contract or agreement, whereby such person, company or corporation shall be released or discharged from liability or responsibility, on account of personal injuries received by such servants or employees, while in the service of such person, company or corporation, by reason of the negligence of such person, company or corporation, or the agents or employees thereof, and such contracts shall be absolutely null and void.

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<sup>1</sup> As amended 3 Nov. 1914. *Wyoming Laws*, 1913, c. 79.

# METROPOLITAN AREAS OF THE UNITED STATES OF AMERICA

## **District of Columbia**

Organic Act of the District of Columbia<sup>1</sup>

*11 June 1878*

.....

The Code of the District of Columbia<sup>2</sup>

PART I. GOVERNMENT OF DISTRICT

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## **City of New York**

New York City Charter<sup>3</sup>

*3 November 1936*

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Administrative Code of the City of New York<sup>4</sup>

*30 December 1937, as Amended to 1 November 1942*

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<sup>1</sup> *District of Columbia Code*, 1940 edition, Vol. I, pp. LVIII-LXI.

<sup>2</sup> *Ibid.*, pp. 1-253

<sup>3</sup> *New York City Charter and Administrative Code*, annotated, 1943, Williams Press, Inc., Albany, N.Y., pp. 3-154.

<sup>4</sup> *Ibid.*, pp. 237-2245.

## TERRITORIES OF THE UNITED STATES OF AMERICA

**Alaska**Alaska Government Act, 1912, and Other Enactments<sup>1</sup>*23. Constitution and Laws of the United States Extended*

The Constitution of the United States, and all the laws thereof which are not locally inapplicable, shall have the same force and effect within the said Territory as elsewhere in the United States. All the laws of the United States passed prior to August 24, 1912, establishing the executive and judicial departments in Alaska shall continue in full force and effect until amended or repealed by Act of Congress; except as herein provided all laws in force in Alaska prior to that date shall continue in full force and effect until altered, amended, or repealed by Congress or by the legislature.

*24. Authority of Territorial Legislature to Repeal or Amend Existing Laws Limited; Additional Taxes or Licences*

The authority granted to the legislature by section 23 of this title to alter, amend, modify, and repeal laws in force in Alaska shall not extend to the customs, internal revenue, postal, or other general laws of the United States or to the game, fish, and fur seal laws and laws relating to fur-bearing animals of the United States applicable to Alaska, or to the laws of the United States applicable to Alaska, or to the laws of the United States providing for taxes on business and trade, or to sections 41, 47, 161-169, and 322-325, of this title. This provision shall not operate to prevent the legislature from imposing other and additional taxes or licences.

*44a. Bonded Indebtedness by Municipalities for Public Works; Amount; Extent of Work<sup>2</sup>*

Municipal corporations in the Territory of Alaska are hereby authorised to construct, improve, extend, better, repair, reconstruct, or acquire public works of a permanent character and to incur bonded indebtedness and issue negotiable bonds for any or all such purposes: *Provided, however,* That no municipal corporation shall incur a bonded indebtedness or issue its negotiable bonds under sections 44a-44e of this title to an amount which, including existing bonded indebtedness shall exceed 10 per centum of the aggregate taxable value of the real and personal property within the corporate limits of such municipal corporation. Such public work shall include but not be limited to streets, bridges, wharves and harbour facilities, sewers and sewage-disposal plants, municipal buildings, schools, libraries, gymnasias and athletic fields, fire houses, and public utilities.

<sup>1</sup> The texts have been taken from the *United States Code*, 1940 edition, Vol. III, Title 48, "Territories and Insular Possessions", pp. 4095, 4098, 4101-4103, 4114-4116, 4128-4131, 4155.

<sup>2</sup> Further provisions regarding indebtedness for public works are contained in sections 44b to 44e, *United States Code*, 1940 edition, Vol. III, Title 48.

## LEGISLATURE AND GOVERNMENT

*61. Governor; Authority in General*

There shall be appointed for the Territory a Governor, who shall reside therein during his term of office and be charged with the interests of the United States Government within the Territory. . .

The Governor shall from time to time enquire into the operations of any person, company, association, or corporation authorised by the United States, by contract or otherwise, to kill seal or other fur-bearing animals in the Territory of Alaska, and any and all violations by such person, company, association, or corporation of the agreement with the United States under which the operations are being conducted.

*64. Same; Annual Report to the President of the United States; Confirming or Annulling Acts*

The Governor of Alaska shall make an annual report, on the 1st day of October in each year, to the President of the United States, of his official acts and doings, and of the condition of the Territory, with reference to its resources, industries, population, and administration of the civil government thereof.

The President of the United States shall have power to review and to confirm or annul any reprieves granted or other acts done by him.

*77. Same; General Power and Limitation*

The legislative power of the Territory of Alaska shall extend to all rightful subjects of legislation not inconsistent with the Constitution and laws of the United States, but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents; nor shall the legislature grant to any corporation, association, or individual any special or exclusive privilege, immunity, or franchise without the affirmative approval of Congress; nor shall the legislature pass local or special laws in any of the cases enumerated in section 1471 of this title; nor shall it grant private charters or special privileges, but it may, by general act, permit persons to associate themselves together as bodies corporate for manufacturing, mining, agricultural, and other industrial pursuits, and for the conduct of business of insurance, savings banks, banks of discount and deposit (but not of issue), loans, trust, and guaranty associations, for the establishment and conduct of cemeteries, and for the construction and operation of railroads, wagon roads, vessels, and irrigating ditches, and the colonisation and improvement of lands in connection therewith, or for colleges, seminaries, churches, libraries, or any other benevolent, charitable, or scientific association, but the authority embraced in this section shall only permit the organisation of corporations or associations whose chief business shall be in the Territory of Alaska; no divorce shall be granted by the legislature; nor shall any lottery or the sale of lottery tickets be allowed; nor shall the legislature or any municipality interfere with or attempt in any wise to limit the Acts of Congress to prevent and punish gambling, and all gambling implements shall be seized by the United States marshal or any of his deputies, or any constable or police officer, and destroyed; nor shall any public money be

appropriated by the Territory or any municipal corporation therein for the support or benefit of any sectarian, denominational, or private school, or any school not under the exclusive control of the Government; nor shall the Government of the Territory of Alaska or any political or municipal corporation or sub-division of the Territory make any subscription to the capital stock of any incorporated company, or in any manner lend its credit for the use thereof; nor shall the Territory, or any municipal corporation therein, have power or authority to create or assume any bonded indebtedness whatever; nor to borrow money in the name of the Territory or any municipal division thereof; nor to pledge the faith of the people of the same for any loan whatever, either directly or indirectly; nor to create, nor to assume, any indebtedness, except for the actual running expenses thereof; and no such indebtedness for actual running expenses shall be created or assumed in excess of the actual income of the Territory or municipality for that year, including as a part of such income appropriations then made by Congress, and taxes levied and payable and applicable to the payment of such indebtedness and cash and other money credits on hand and applicable and not already pledged for prior indebtedness. All authorised indebtedness shall be paid in the order of its creation. No acts or laws passed by the Legislature of Alaska providing for a county form of government therein shall have any force or effect until it shall be submitted to and approved by the affirmative action of Congress; and all laws passed, or attempted to be passed, by such legislature in said Territory inconsistent with the provisions of this section or of sections 44, 45, 78 or 79 of this title, shall be null and void. Nothing contained in this section shall be held to abridge the right of the legislature to modify the qualifications of electors by extending the elective franchise to women.

#### EDUCATION AND SCHOOLS

##### *161. Public Instruction; Superintendent of Public Instruction<sup>1</sup>*

The Governor of Alaska shall be ex officio superintendent of public instruction in the Territory, and as such shall have supervision and direction of the public schools in said Territory and shall prescribe rules and regulations for the examination and qualification of teachers, and shall make an annual report of the condition of the schools in the Territory to the Secretary of the Interior.

##### *169. Same; Education of Children and Eskimos and Indians*

The schools specified and provided for in sections 162, 163, 166, and 167 of this title shall be devoted to the education of white children and children of mixed blood who lead a civilised life. The education of the Eskimos and Indians in Alaska shall remain under the direction and control of the Secretary of the Interior, and schools for and among the Eskimos and Indians of Alaska shall be provided for by an annual appropriation, and the Eskimo and Indian children of Alaska shall have the same right to be admitted to any Indian boarding school as the Indian children in the States or Territories of the United States.

##### *170. Same; Schools for White and Coloured Children; Appropriations*

The Legislature of Alaska is empowered to establish and maintain schools for white and coloured children and children of mixed blood who lead a civilised life in said Territory and to make appropriations of Territorial funds for that purpose.

<sup>1</sup> Further provisions regarding education are contained in sections 161-168, *United States Code*, 1940 edition, Vol. III, Title 48.

*170a. Education of Children of Non-Taxpaying Natives; Contracts with Local School Boards*

The Secretary of the Interior is authorised to enter into contracts with duly established school boards which maintain schools in certain cities and towns to educate the children of non-taxpaying natives including those of mixed native and white blood; to lease school buildings owned by the United States Government to such contracting school boards; and to pay such school boards for service rendered an amount which shall not be in excess of the cost of operating a school for natives under present appropriations in such town.

*173. Vocational Training for Aboriginal Natives; Schools, etc.*

The Secretary of the Interior is authorised to establish a system of vocational training for the aboriginal native people of the Territory of Alaska and to construct and maintain suitable buildings for schools and dormitories and hospitals in such localities within the Territory of Alaska as he may select.

ALASKA GAME LAW<sup>1</sup>

.....

ALASKA FISHERIES<sup>2</sup>

.....

REINDEER INDUSTRY<sup>3</sup>

*250. Purpose*

A necessity for providing means of subsistence for the Eskimos and other natives of Alaska is hereby declared to exist. It is also declared to be the policy of Congress, and the purpose of this sub-chapter, to establish and maintain for the said natives of Alaska a self-sustaining economy by acquiring and organising for and on behalf of said natives a reindeer industry or business, by encouraging and developing native activity and responsibility in all branches of the said industry or business, and by preserving the native character of the said industry or business thus established.

*250h. Grant of Administrative Powers to Organisations of Natives*

The Secretary of the Interior is hereby authorised to grant, in his discretion and subject to such terms as he may impose, to any corporations, associations, or other organisations of said natives any or all of the powers relating to the administration of the reindeer industry or business provided for in this sub-chapter, upon a finding by him as to each grant that it is in the interests of the said natives of Alaska and will serve the purposes of this sub-chapter.

<sup>1</sup> Regarding game in Alaska, see sections 191-213, *United States Code*, 1940 edition, Vol. III, Title 48.

<sup>2</sup> Regarding fisheries in Alaska, see *ibid.*, sections 220-247.

<sup>3</sup> For more detailed provisions regarding reindeer, see *ibid.*, sections 250a-250p.



## INTOXICATING LIQUOR

292. *Manufacture and Sale of Intoxicating Liquors;  
Legislative Power to Regulate*

No spirituous or intoxicating liquors shall be manufactured or sold in the Territory of Alaska, except under such regulations and restrictions as the Territorial Legislature shall prescribe, and the legislative power and authority conferred upon the Legislative Assembly of the Territory of Alaska by sections 21-24, 44, 45, 67-89 and 145 of this title, shall be, and hereby is extended to include any legislation pertaining to the manufacture or sale of spirituous or intoxicating liquor within the said Territory, and any provision contained in the said Act of August 24, 1912, in conflict herewith, is hereby expressly repealed: *Provided, however,* That the Legislature of the Territory of Alaska shall have full power and authority to delegate the powers hereby conferred to any board or commission designated or created by the Legislature for such purpose, which powers shall include the power to make rules and regulations governing the manufacture, barter, sale, or possession of spirituous or intoxicating liquors in the Territory of Alaska, to prescribe the qualifications of those who are to engage in the manufacture, barter, sale, or possession of intoxicating liquors in the said Territory, and to prescribe licence fees and excise taxes therefor: *Provided,* That nothing in this section shall in any way repeal, conflict, or interfere with the public general laws of the United States imposing taxes on the manufacture and sale of intoxicating liquors for the purpose of revenue and known as the "internal revenue laws".

PUBLIC UTILITIES<sup>1</sup>

.....

PUBLIC LANDS IN ALASKA<sup>2</sup>

.....

## GRAZING DISTRICTS AND PRIVILEGES

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471. *Declaration of Policy*

It is hereby declared to be the policy of Congress in promoting the conservation of the natural resources of Alaska to provide for the protection and development of forage plants and for the beneficial utilisation thereof for grazing by livestock under such regulations as may be considered necessary and consistent with the purposes and provisions of sections 471-471o of this title. In effectuating this policy the use of these lands for grazing shall be subordinated (a) to the development of their mineral resources, (b) to the protection, development, and utilisation of their forests, (c) to the protection, development, and utilisation of

<sup>1</sup>For detailed provisions regarding railroads, telegraphs, telephones and public utility districts, see *ibid.*, sections 301-315h.

<sup>2</sup>For detailed provisions regarding lands, land district and land offices, homesteads, mining claims, miners' and labourers' liens for work done, rights of way for public lands, timber on lands, coal lands, purchases for trade or manufacture, grazing districts and privileges, etc., see *ibid.*, sections 351-472a.

their water resources, (*d*) to their use for agriculture, and (*e*) to the protection, development, and utilisation of such other resources as may be of greater benefit to the public.

## SLUM CLEARANCE AND HOUSING PROJECTS

### *481. Legislative Authorisation to Create Authorities*

The Legislature of the Territory of Alaska may create a public corporate authority to undertake slum clearance and projects to provide dwelling accommodation for families of low income and for persons (and their families) engaged in national-defence activities within the Territory.<sup>1</sup>

## Canal Zone

### Panama Canal Act<sup>2</sup>

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## Hawaii

### Hawaiian Organic Act, 30 April 1900, as Amended<sup>3</sup>

## GENERAL PROVISIONS

### *495. Constitution and Laws of United States in Effect*

The Constitution, and, except as otherwise provided, all the laws of the United States, including laws carrying general appropriations, which are not locally inapplicable, shall have the same force and effect within the said Territory as elsewhere in the United States. . .

### *502. Suits for Specific Performance of Personal Labour Contracts*

No suit or proceedings shall be maintained for the specific performance of any contract entered into for personal labour or service, nor shall any remedy exist or be enforced for breach of any such contract, except in a civil suit or proceeding instituted solely to recover damages for such breach: *Provided*, That the provisions of sections 501-504 of this title shall not modify or change the laws of the United States applicable to merchant seamen.

<sup>1</sup> For detailed provisions regarding the authority, see sections 482-483, *United States Code*, Supplement I, 1941, Title 48.

<sup>2</sup> *Idem*, 1940 edition, Vol. III, Title 48, pp. 4235-4259.

<sup>3</sup> The text has been taken from *ibid.*, "Territories and Insular Possessions", pp. 4160, 4161, 4165, 4166.

*504. Immigration Contract Labour Law Applicable*

Section 141 of Title 8, and Acts amendatory thereof and supplemental thereto, are extended to and made applicable to the Territory of Hawaii.<sup>1</sup>

*562. Scope of Legislative Power*

The legislative power of the Territory shall extend to all rightful subjects of legislation not inconsistent with the Constitution and laws of the United States locally applicable. The Legislature, from time to time, shall reapportion the membership in the senate and house of representatives among the senatorial and representative districts on the basis of the population in each of said districts who are citizens of the Territory; but the Legislature shall not grant to any corporation, association, or individual any special or exclusive privilege, immunity, or franchise without the approval of Congress; nor shall it grant private charters, but it may by general act permit persons to associate themselves together as bodies corporate for manufacturing, agricultural, and other industrial pursuits, and for conducting the business of insurance, savings banks, banks of discount and deposit (but not of issue), loan, trust, and guaranty associations, for the establishment and conduct of cemeteries, and for the construction and operation of railroads, wagon roads, vessels, and irrigating ditches, and the colonisation and improvement of lands in connection therewith, or for colleges, seminaries, churches, libraries, or any other benevolent, charitable or scientific association. No divorce shall be granted by the Legislature; nor shall any lottery or sale of lottery tickets be allowed; nor shall any public money be appropriated for the support or benefit of any sectarian, denominational, or private school, or any school not under the exclusive control of the Government; nor shall the Government of the Territory of Hawaii, or any political or municipal corporation or sub-division of the Territory, make any subscription to the capital stock of any incorporated company, or in any manner lend its credit for the use thereof; nor shall any debt be authorised to be contracted by or on behalf of the Territory, or any political or municipal corporation or sub-division thereof, except to pay the interest upon the existing indebtedness, to suppress insurrection, or to provide for the common defence, except that in addition to any indebtedness created for such purposes the Legislature may authorise loans by the Territory, or any such sub-division thereof, for the erection of penal, charitable, and educational institutions, and for public buildings, wharves, roads and harbour and other public improvements, but the total of such indebtedness incurred in any one year by the Territory or any such sub-division shall not exceed 1 per centum of the assessed value of the property in the Territory or sub-division, respectively, as shown by the then last assessments for taxation, whether such assessments are made by the Territory or the sub-division or sub-divisions, and the total indebtedness of the Territory shall not at any time be extended beyond 10 per centum of such assessed value of property in the Territory and the total indebtedness of any such sub-division shall not at any time be extended beyond 5 per centum of such assessed value of property in the sub-division, but nothing in this chapter shall prevent the refunding of any indebtedness at any time; nor shall any such loan be made upon the credit of the public domain or

<sup>1</sup> This section is as follows: "§ 141. Same; validity of contracts for labour of aliens made before importation.

All contracts or agreements, express or implied, parol, or special, which may be made by and between any person, company, partnership, or corporation, and any foreigner or foreigners, alien or aliens, to perform labour or service or having reference to the performance of labour or service by any person in the United States, its Territories, or the District of Columbia previous to the migration or importation of the person or persons whose labour or service is contracted for into the United States, shall be utterly void and of no effect. (26 Feb. 1885, ch. 164, § 2, 23 Stat. 332.)" *United States Code*, 1940 edition, Vol. 1, Title 8, "Aliens and Nationality", p. 145.

part thereof; nor shall any bond or other instrument of any such indebtedness be issued unless made payable in not more than thirty years from the date of the issue thereof; nor shall any issue of bonds or other instruments of any such indebtedness be made after July 1, 1926, other than such bonds or other instruments of indebtedness in serial form maturing in substantially equal annual instalments, the first instalment to mature not later than five years from the date of the issue of such series, and the last instalment not later than thirty years from the date of such issue; nor shall any such bond or indebtedness be issued or incurred until approved by the President of the United States. The Legislature may by general act provide for the condemnation of property for public uses, including the condemnation of rights-of-way for the transmission of water for irrigation and other purposes.

#### PUBLIC LANDS<sup>1</sup>

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#### LABOUR STATISTICS

##### *7. Reports of Labour Statistics in Hawaii<sup>2</sup>*

It shall be the duty of the United States Commissioner of Labor Statistics to collect, assort, arrange, and present in reports every five years statistical details relating to all departments of labour in the Territory of Hawaii, especially in relation to the commercial, industrial, social, educational, and sanitary condition of the labouring classes, and to all such other subjects as Congress may by law direct. The said commissioner is especially charged to ascertain the highest, lowest, and average number of employees engaged in the various industries in the Territory, to be classified as to nativity, sex, hours of labour and conditions of employment, and to report the same to Congress.

### **Puerto Rico**

#### **An Act to Provide a Civil Government for Puerto Rico and for Other Purposes<sup>3</sup>**

*2 March 1907*

##### *§ 737. Bill of Rights and Restrictions*

No law shall be enacted in Puerto Rico which shall deprive any person of life, liberty, or property without due process of law, or deny to any person therein the equal protection of the laws.

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<sup>1</sup>For detailed provisions regarding public lands, see sections 662-677b, *United States Code*, 1940 edition, Vol. III, Title 48.

<sup>2</sup>In *ibid.*, this section is included in Vol. II, Title 29, "Labour", at p. 2688.

<sup>3</sup>Text from *idem*, Vol. III, Title 48, "Territories and Insular Possessions", pp. 4191-4192, 4206-4207.

No law impairing the obligation of contracts shall be enacted.  
No person shall be imprisoned for debt.

.....

Private property shall not be taken or damaged for public use except upon payment of just compensation ascertained in the manner provided by law.

Nothing contained in this chapter shall be construed to limit the power of the Legislature to enact laws for the protection of the lives, health, or safety of employees.

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Slavery shall not exist in Puerto Rico.

Involuntary servitude, except as a punishment for crime, whereof the party shall have been duly convicted, shall not exist in Puerto Rico.

No law shall be passed abridging the freedom of speech or of the press, or the right of the people peaceably to assemble and petition the Government for redress of grievances.

No law shall be made respecting an establishment of religion or prohibiting the free exercise thereof, and that the free exercise and enjoyment of religious profession and worship without discrimination or preference shall forever be allowed, and that no political or religious test other than an oath to support the Constitution of the United States and the Laws of Puerto Rico shall be required as a qualification to any office or public trust under the Government of Puerto Rico.

No public money or property shall ever be appropriated, applied, donated, used, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, sectarian institution, or association, or system of religion, or for the use, benefit, or support of any priest, preacher, minister, or other religious teacher or dignitary as such. Contracting of polygamous or plural marriages is prohibited.

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The rule of taxation in Puerto Rico shall be uniform.

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Eight hours shall constitute a day's work in all cases of employment of labourers and mechanics by and on behalf of the Government of the island on public works, except in cases of emergency.

The employment of children under the age of fourteen years in every occupation injurious to health or morals or hazardous to life or limb is hereby prohibited.

Act of 25 June 1938

*§ 911. Legislative Authorisation to Create Authorities*

The Legislature of Puerto Rico may create public corporate authorities to undertake slum clearance and projects to provide dwelling accommodations for families of low income.

## Virgin Islands

### Organic Act of the Virgin Islands of the United States<sup>1</sup>

22 June 1936

#### *1406g. Bill of Rights and Restrictions*

No law shall be enacted in the Virgin Islands which shall deprive any person of life, liberty, or property without due process of law or deny to any person therein equal protection of the laws.

No law impairing the obligation of contracts shall be enacted.

No person shall be imprisoned or shall suffer forced labour for debt.

No ex-post-facto law or bill of attainder shall be enacted.

Private property shall not be taken for public use except upon payment of just compensation ascertained in the manner provided by law.

Nothing contained in sections 1405-1406<sup>m</sup> of this chapter shall be construed to limit the power of the municipal councils herein provided to enact laws for the protection of life, the public health, or the public safety.

.....

Slavery shall not exist in the Virgin Islands.

Involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall not exist in the Virgin Islands.

No law shall be passed abridging the freedom of speech or of the press or the right of the people peaceably to assemble and petition the Government for the redress of grievances.

No law shall be made respecting an establishment of religion or prohibiting the free exercise thereof, and the free exercise and enjoyment of religious profession and worship without discrimination or preference shall forever be allowed, and no political or religious test other than an oath to support the Constitution and the laws of the United States applicable to the Virgin Islands, and the laws of the Virgin Islands, shall be required as a qualification to any office or public trust under the Government of the Virgin Islands.

The contracting of polygamous or plural marriages is prohibited.

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The employment of children under the age of fourteen years in any occupation injurious to health or morals or hazardous to life or limb is hereby prohibited.

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<sup>1</sup>Text from *United States Code*, 1940 edition, Vol. III, Title 48, "Territories and Insular Possessions", pp. 4266-4269.

## ARGENTINA

### Constitution of the Argentine Nation<sup>1</sup>

*As Amended 1860, 1866 and 1898*

We, the representatives of the people of the Argentine Nation, assembled in general constitutional convention by the will and election of the Provinces of which it is composed, in pursuance of previous agreements, for the purpose of constituting the National Union, of establishing justice, of ensuring domestic peace, of providing for the common defence, of promoting the general welfare, and of securing the benefits of liberty to ourselves, our posterity, and to all persons who may desire to inhabit the Argentine soil, invoking the protection of God, the source of all reason and justice, do hereby ordain, decree, and establish this Constitution for the Argentine Nation.

### PART FIRST

#### *Chapter I. Declarations, Rights and Guarantees*

4. The Federal Government shall defray the expenses of the nation with the funds of the national treasury, consisting of: receipts from import and export duties; proceeds of the sale or lease of national lands; revenues of the postal service; taxes levied by the general Congress equitably and in proportion to the population; and moneys obtained through loans and financial operations decreed by said Congress for national urgencies, or for works of national utility.

5. Each Province shall adopt its own Constitution which shall provide for the administration of justice in its own territory, its municipal system, and primary instruction, such Constitution to be framed upon the republican representative plan, in harmony with the principles, declarations, and guarantees of the national Constitution. Upon these conditions, the Federal Government shall guarantee to each Province the enjoyment and exercise of its institutions.

8. The citizens of each Province shall enjoy in all the others the rights, privileges, and immunities belonging to the citizens of such other Provinces. The extradition of criminals is reciprocally obligatory on all the Provinces.

9. All custom-houses in the territory of the nation shall be national, and governed by the tariff laws enacted by Congress.

10. The circulation within the territory of the Republic of articles of domestic production or manufacture and of all classes of goods and merchandise cleared at the custom-houses shall be free from taxation.

11. Articles of national or foreign production or manufacture, and cattle of all kinds, when passing from the territory of one Province into that of another, shall be exempt from transit duties. The same freedom shall also be enjoyed by the carriages, vessels, or animals used for their transportation, and no other duty, whatever its name may be, shall hereafter be imposed upon such articles and vehicles during their transit through the territory.

12. Vessels bound from one Province to another shall not be compelled to

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<sup>1</sup> English translation from W. F. DODD: *Modern Constitutions*, Vol. I, Chicago, 1909, pp. 1-29; for Spanish text, see *Boletín del Trabajo de la República Argentina*, June 1940, or Andrés María LAZCANO y MAZON: *Constituciones políticas de América*, Vol. I, pp. 223-248.

enter, cast anchor, or pay duties on account of transit; and in no case shall any preference be given to one port over another, by means of commercial laws or regulations.

14. All the inhabitants of the nation shall enjoy, subject to the laws regulating their exercise, the following rights, to wit: to work and engage in any lawful industry: to navigate and engage in commerce; to petition the authorities; to enter, remain in, travel through, or leave the Argentine territory; to publish their ideas through the press without previous censorship; to use and dispose of their property; to associate together for useful purposes; freely to profess their religion; and to teach and to study.

15. There shall be no slaves in the Argentine Nation. Those few now existing therein shall become free as soon as this Constitution becomes law. The indemnification which may have to be paid in consequence of this declaration shall be regulated by a special law. Contracts involving the purchase or sale of persons shall be criminal acts, for which the contracting parties, as well as the notary or official before whom they are executed, shall be responsible. Slaves introduced in any way whatever into the country shall become free by the mere fact of entrance into the territory of the Republic.

16. The Argentine Nation does not recognise prerogatives of blood or of birth; personal privileges and titles of nobility shall not exist therein. All of its inhabitants are equal before the law, and their eligibility to office shall depend exclusively upon their fitness. Equality shall be the basis of taxation and of all public burdens.

17. Private property is inviolable, and no inhabitants of the nation shall be deprived of it except by judicial decision founded on law. Condemnation of property for a public purpose shall be authorised by law, and indemnification previously made. Congress alone shall have power to impose the taxes referred to in article 4. No personal service shall be required of anyone, except when ordered by law or by judicial decision founded on law. Authors and inventors shall be the exclusive owners of their works, inventions, or discoveries, for the length of time established by law. Confiscation of property is forever stricken out of the Argentine Penal Code. No armed body shall make requisitions or demand assistance of any kind.

18. . . The national jails shall be healthful and clean, intended for the safe-keeping and not for the punishment of the offenders detained therein, and any measure which, under colour of precaution, tends to inflict upon the prisoners more hardships than those required for their security shall cause the judge authorising it to be held responsible.

19. Private actions which in no way offend public order or morals and are not injurious to a third party, shall be reserved to God alone, and are not subject to the authority of the State. No inhabitant of the nation shall be bound to do what is not ordered by law, nor shall he be forbidden to do what it does not prohibit.

20. Aliens shall enjoy in the territory of the nation all the civil rights of citizens. They may exercise their trade, business, or profession; own, buy, and transfer real estate; navigate the rivers and coasts; practise freely their religion; make wills, and contract marriage in conformity with the law. They shall not be compelled to become citizens or to pay forced extraordinary taxes. They may obtain naturalisation by residing two consecutive years in the nation, but the authorities may shorten this period in favour of the applicant who affirms and proves that he has rendered services to the Republic.

22. The people shall not deliberate, or exercise the powers of government, except through their representatives and authorities created by this Constitution. Any armed force or gathering of persons assuming to be vested with the representation of the rights of the people and petitioning in their behalf shall be guilty of sedition.

23. In case of domestic disturbances or foreign attack, endangering the obser-



vance of this Constitution and the safety of the authorities created by it, a state of siege shall be proclaimed in the Province or territory wherein public order is disturbed, and the constitutional guaranties shall be suspended within its limits. But during this suspension the President of the Republic shall have no power by himself to condemn anyone or to inflict punishments. His power shall be limited in such cases, so far as persons are concerned, to arrest or transfer them from one place in the country to another, should they not prefer to leave the Argentine territory.

25. The Federal Government shall encourage European immigration, and shall not have power to restrict, limit, or obstruct, by taxation of any kind, the entrance into the Argentine territory of foreigners coming to it for the purpose of engaging in the cultivation of the soil, the improvement of industrial business, or the introduction and teaching of arts and sciences.

26. Navigation on the rivers in the interior of the nation is free to all flags, and subject to no other regulations than those proclaimed by the national authority.

27. The Federal Government shall be bound to strengthen the commercial and peaceful relations of the Argentine Nation with foreign countries, by means of treaties consistent with the principles of public law established by this Constitution.

28. No principle, guaranty, or right recognised in the foregoing articles shall be altered by any law which may be enacted to regulate its exercise.

29. Congress shall not have power to grant to the national executive, or the Provincial Legislatures the power to grant to the Provincial governors extraordinary powers or the whole of the public authority, or to assent to submissions or supremacy through which the lives, the honour, or the property of Argentines may be placed at the mercy of governments, or of any person whatsoever. Acts of this character shall be utterly void, and shall render their authors, or those who consent to them or authorise them with their signatures, liable to be called to account and to be punished as infamous traitors to their country.

31. This Constitution, the national laws which may be enacted by Congress in pursuance thereof, and treaties with foreign powers shall be the supreme law of the nation; and the authorities of each Province shall be bound to abide by them, any provision in their own Provincial constitutions or laws to the contrary notwithstanding. This rule shall not be applicable to the Province of Buenos Aires, in so far as the treaties ratified after the compact of 11 November 1859, are concerned.

32. The Federal Congress shall not pass any law restricting the liberty of the press, or subjecting it to Federal jurisdiction.

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## PART SECOND. AUTHORITIES OF THE NATION

### TITLE I. THE FEDERAL GOVERNMENT

#### SECTION I. THE LEGISLATIVE POWER

##### *Chapter IV. Powers of Congress*

67. Congress shall have power :

(1) To legislate in regard to custom-houses, and to establish import duties, which, as well as the rates of appraisement on which they are based, shall be uniform throughout the nation; it being thoroughly understood, however, that these duties and all other taxes of a national character are payable in the currency of the respective Provinces in their exact equivalent value; and likewise to establish export duties.

(2) To levy direct taxes for a definite period of time and in a manner proportionately equal throughout the territory of the nation, whenever the defence of the country, the common safety, or the public good may require it.

(3) To borrow money on the credit of the nation.

(4) To provide for the use and disposition of the national lands.

(5) To establish and organise at the capital a national bank, with branches in the Provinces, with power to issue bank notes.

(6) To make arrangements for the payment of the national debt, both foreign and domestic.

(7) To appropriate annually the money necessary to meet the expenses of the national Government, and to approve or disapprove the accounts of its disbursement.

(8) To grant subsidies, to be paid out of the national treasury, to those Provinces whose revenues, according to their budgets, are insufficient to meet their ordinary expenses.

(9) To regulate the free navigation of the rivers in the interior, to declare as ports of entry those which may be deemed fit for that purpose, and to establish or abolish custom houses; but the custom houses for foreign commerce, existing in each Province at the time of its coming into the national union, shall not be abolished.

(10) To coin money, fix the value thereof, and that of foreign coins, and to adopt a uniform system of weights and measures for the whole nation.

(11) To enact civil, commercial, penal, and mining codes, without encroaching upon the local jurisdictions, the provisions of such codes to be enforced either by the Federal or Provincial courts, according as the matters or persons may fall under their respective jurisdictions; and especially to enact general laws on naturalisation and citizenship, for the whole nation, based upon the principle of citizenship by nativity; as well as laws on bankruptcy, counterfeiting of money and forging of public documents of the State, and on the establishment of trial by jury.

(12) To regulate commerce by land and sea with foreign countries, and among the Provinces.

(13) To establish and regulate the post-offices and post-roads of the nation.

(15) To provide for the security of the frontiers and for the preservation of peaceful intercourse with the Indians, and to promote their conversion to Catholicism.

(16) To provide for all that conduces to the prosperity of the country, to the advancement and welfare of all the Provinces, and to the advancement of the enlightenment of the people, by prescribing plans for general and university instruction and by promoting industrial enterprise, immigration, the construction of railways and navigable canals, the colonisation of the public lands, the introduction and establishment of new industries, the importation of foreign capital, and the exploration of the interior rivers, by protective laws for these purposes, by concessions of privileges for a limited time, and by rewards which shall act as an encouragement.

(19) To approve or reject treaties concluded with other nations, and concordats entered into with the Apostolic See, and to make rules for the exercise of ecclesiastical patronage throughout the nation.

(26) To proclaim a state of siege in one or more places in the nation in case of internal disorder, and to approve or suspend the state of siege declared during the recess of Congress by the Executive Power.

(27) To exercise exclusive legislative power throughout the territory of the national capital, and in all other places acquired by purchase or cession in any Province for the construction of forts, arsenals, magazines, or other establishments of national utility.

(28) To make all laws and regulations which shall be necessary for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the Argentine Nation.

## TITLE II. PROVINCIAL GOVERNMENTS

107. With the knowledge of the Federal Congress, the Provinces may enter into partial treaties for the purposes of the administration of justice, the regulation of financial interests, and the execution of public works of common utility; they may promote, by means of protective laws and at their own expense, industry, immigration, the construction of railways and navigable canals, the colonisation of Provincial lands, the introduction and establishment of new industries, the importation of foreign capital, and the exploration of their rivers.

108. The Provinces shall not exercise any power delegated to the Nation. They shall not enter into any partial treaties of a political character; pass laws relating to domestic or foreign commerce or navigation; establish Provincial custom houses; coin money; or create banks of issue without authority from the Federal Congress; nor shall they enact any civil, commercial, criminal, or mining codes, after Congress has enacted such codes, or especially pass laws on the subjects of citizenship, naturalisation, bankruptcy, and counterfeiting of money or forging of Government documents; nor shall they establish tonnage dues, arm war vessels or raise armies, except in case of foreign invasion or of danger so imminent as to admit of no delay, immediately giving account thereof to the Federal Government; nor shall they appoint or receive foreign agents, or admit new religious orders.

110. The Governors of the Provinces shall be the natural agents of the Federal Government for the enforcement of the Constitution and of the laws of the Nation.

## PROVINCES OF ARGENTINA

*The Constitutions of the Provinces of Argentina all contain declarations of rights of the traditional character and provisions implementing the requirement of article 5 of the Constitution of the Argentine Nation that each Provincial Constitution shall provide for primary instruction; references to these declarations and provisions are given below. Some of the Constitutions also contain general declarations of social and economic policy or specific provisions concerning labour standards; the texts of these are given. The provisions of some of the Constitutions defining the powers of the Legislature and executive branches of the Government respectively and stating the powers and duties of municipalities are also relevant to social and economic policy.<sup>1</sup>*

**Buenos Aires**Constitution of 23 November 1934<sup>2</sup>

1-44. *Declaration of Rights.*  
189-191. *Education.*

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<sup>1</sup> *E.g.*, article 68 of the Constitution of Santiago del Estero, p. 260 below; other provisions of this type are omitted to economise space.

<sup>2</sup> Spanish text in *Digesto Constitucional de la Nación Argentina*, Imprenta del Congreso Nacional, Buenos Aires, 1941, pp. 55-109.

### Catamarca

Constitution of 27 June 1895<sup>1</sup>

1- 61. *Declaration of Rights.*  
226-227. *Education.*

### Cordeba

Constitution of 11 January 1883<sup>2</sup>

1- 43. *Declaration of Rights.*  
83 (4). *Education.*

### Corrientes

Constitution of 31 October 1913<sup>3</sup>

1- 32. *Declaration of Rights.*  
171. *Education.*

### Entre Rios

Constitution of 18 August 1933<sup>4</sup>

1- 35. *Declaration of Rights.*

36. The State shall promote the economic and social well-being of the collectivity by means of its legislation.

37. The State shall encourage and protect production and especially the prevailing industries and those which transform rural products; for this purpose it may grant, on a temporary basis, bounties, prizes, relief from taxes and contributions and other advantages compatible with this Constitution; it may also assist in the capitalisation of new industries and in increasing the capital of existing ones, participating in the direction and distribution of profits.

It shall also encourage and guide the application of every system, instrument and procedure which tends to facilitate putting production on a commercial basis and may use its resources and credit for this purpose.

38. It shall promote immigration, colonisation, the construction of railways, canals and other means of communication and transport and the introduction and exploitation of industries and undertakings which contribute to the public good.

39. It shall intensify the construction and progressive improvement of roads and encourage private initiative and co-operation for the development of highways.

40. It shall stimulate the investment of private capital and especially of

<sup>1</sup> Spanish text in *Digesto Constitucional de la Nación Argentina*, Imprenta del Congreso Nacional, Buenos Aires, 1941, pp. 111-161.

<sup>2</sup> *Ibid.*, pp. 163-220.

<sup>3</sup> *Ibid.*, pp. 221-268.

<sup>4</sup> *Ibid.*, pp. 269-331.

popular savings in undertakings which maintain public services in economic financial entities and in the establishment of industries in the Province, and shall initiate this evolution by submitting official undertakings to a mixed régime and strengthening private initiative with the participation and assistance of the State.

41. It shall stimulate the co-operative movement and protect co-operative organisations.

42. It shall regulate by special laws the conditions of work of workers and employers resident in the Province.

It shall regulate specially:

- (a) The duration of the working day and safety of working conditions in relation to the requirements of health and the conditions of industrial work and of agricultural and stock-raising occupations;
- (b) Insurance and mutual assistance in cases of sickness, maternity, death, abandonment of children, old age and invalidity;
- (c) Other forms of social provision and assistance;
- (d) The minimum wage for State workers, which shall be fixed on the basis of the cost of living;
- (e) The exemption from execution of family homesteads;
- (f) The encouragement of the construction of healthy dwellings with the assistance of the State in the form of direct subsidies, the grant of credit or guarantees, or release from encumbrances;
- (g) Trade unionism, which shall be encouraged and guided;
- (h) The functioning of arbitral tribunals, including legally authorised representatives of employers' associations and trade unions, to settle disputes between employers and workers.

43. The Legislature, when enacting fiscal legislation, shall provide for the gradual elimination of all taxes on articles of primary necessity, and shall progressively take steps towards the adoption of a fiscal system based on direct taxes and taxes falling on luxury goods.

44. Every alienation of the property of the fisc or of municipal property, all purchases, and all other contracts susceptible of auction, shall be made in this form and in a public manner, on pain of nullity and without prejudice to the resulting responsibilities.

45. When the alienation of the property of the fisc by direct sale or gratuitous cession is considered necessary for the foundation of colonies or for other purpose of public utility, the Legislature may, by two-thirds of the votes of those present, authorise these forms of alienation, taking into account each case and adopting a special law for each one. The Executive Power shall render account of the use which it has made of each authorisation when the law concerned has been executed.

46. The acquisition of real property by the Province for colonisation or for other purposes shall be authorised by a vote of two-thirds of the members of each Chamber present.

201-215. *Education and Libraries.*

## Jujuy

Constitution of 28 February 1935<sup>1</sup>

1-40. *Declaration of Rights.*

137-139. *Education.*

<sup>1</sup> *Ibid.*, pp. 333-373.

## La Rioja

Constitution of 31 May 1933<sup>1</sup>

1-17. *Declaration of Rights.*

18. It is the duty of the Government to promote everything conducing to the prosperity of the Province, encouraging morality, work, industry and commerce by liberty, order and security. It is also its duty to protect immigration, colonisation, the construction of railways, telegraphs, highways, canals and other means of irrigation, the importation of capital, the introduction of new industries and sources productive of public wealth, the exploration of the territory, and the formation of companies by private individuals, by means of protective laws, and by the grant of facilities of all kinds, the acceleration of legal formalities and proceedings, and everything which is constitutionally within the sphere of the Provincial Government.

19 - 37. *Declaration of Rights.*

127-131. *Education.*

## Mendoza

Constitution of 11 February 1916<sup>2</sup>

1-43. *Declaration of Rights.*

44. In the territory of the Province the Sunday or weekly rest is compulsory with the exceptions established by the law for reasons of public interest.

45. The Legislature shall enact a law for the protection and regulation of the work of women and young persons below eighteen years of age in factories, workshops, commercial houses, and other industrial establishments, and shall in general secure to the worker healthy working and living conditions.

Regulations limiting the duration of the working day shall also be enacted. In the case of works or public services in establishments of the State the duration of the working day shall be fixed at eight hours with the exceptions provided for by law.

46. *Public holidays.*

47-48. *Declaration of Rights.*

186 -196. *Irrigation.*

211- 217. *Education.*

218. *Provincial Bank.*

## Salta

Constitution of 10 October 1929<sup>3</sup>

1- 39. *Declaration of Rights.*

40. The State shall endeavour by means of adequate laws to improve the conditions of life, public health, and social livelihood, encouraging and protecting production, co-operation, mutual help and saving. It shall fix the maximum length of the working day and minimum wages; shall establish safety and health in work-

<sup>1</sup> Spanish text in *Digesto Constitucional de la Nación Argentina*, Imprenta del Congreso Nacional, Buenos Aires, 1941, pp. 375-428.

<sup>2</sup> *Ibid.*, pp. 429-493.

<sup>3</sup> *Ibid.*, pp. 495-542.

shops and factories; shall regulate the work of women and children, and establish arbitration and conciliation boards to settle disputes between capital and labour.

41. The State shall establish savings banks and gratuity funds for widows and orphans.

42. The Sunday rest is declared compulsory with the exceptions provided for in the relevant legislation.

43. No personal service may be required except in virtue of a law or a judicial decision board on a law.

188-192. *Education.*

## San Juan

Constitution of 10 February 1927<sup>1</sup>

1-30. *Declaration of Rights.*

31. The right to a minimum of economic security is recognised to the inhabitants of the Province. To this end the law shall establish: the duration of the working day fixed in relation to the requirements of health and the state of industrial development and of the development of agriculture and stock-raising; the minimum wage fixed in relation to the cost of living; a system of insurance against sickness, old age, invalidity, and protection for maternity, widowhood and destitute children, which may provide for compulsory contributions; the encouragement of the construction of healthy dwellings with the assistance of the State, in the form of direct subsidies, or of the grant of credit on liberal terms, or release from encumbrances; the regulation of trade unions, and the normal conduct of relations between capital and labour by means of legal norms which attribute to the authorities the necessary powers to make effective the guarantees provided for in this article.

32-33. *Declaration of Rights.*

153-156. *Education.*

## San Luis

Constitution of 19 October 1927<sup>2</sup>

1-30. *Declaration of Rights.*

170-178. *Education.*

## Santa Fe

Constitution of 24 December 1907<sup>3</sup>

1-28. *Declaration of Rights.*

134-138. *Education.*

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<sup>1</sup> *Ibid.*, pp. 543-582.

<sup>2</sup> *Ibid.*, pp. 583-634.

<sup>3</sup> *Ibid.*, pp. 635-673.

## Santiago del Estero

Constitution of 2 June 1939<sup>1</sup>

- 1-27. *Declaration of Rights.*  
 28. *Substantially identical with, but a compressed version of, articles 36 and 37 of the Entre Rios Constitution, p. 256.*  
 30. *Substantially identical with articles 40 and 41 of the Entre Rios Constitution pp. 256-257.*  
 31. Work in its varied forms is a duty of the individual towards society and shall enjoy the special protection of the laws which shall ensure the worker the conditions of a worthy existence.  
 32. *Substantially identical with article 44 of the Entre Rios Constitution, p. 256.*  
 33. *Substantially identical with article 45 of the Entre Rios Constitution, p. 256.*  
 34. The State shall promote the division of the ownership of the numerous rural properties held in co-ownership on the basis of traditional titles by means of a law for their expropriation and sub-division which ensures the adjudication of determinate parts of these properties, by families, to the recognised co-owners without placing any special obligation upon them.  
 35-38. *Taxation and loans.*  
 68. It is the duty of the Legislative Power :  
 (31) To enact laws which ensure to every inhabitant his right to health and deal with the duty of the State to provide medico-social assistance, rationalising the administration of the different services, and co-ordinating and organising the control of the investment of public money made by means of private charitable associations ;  
 (32) To legislate on the rights of the young to health and education ;  
 (34) To enact a law on the organisation of labour on the basis of the participation of the State, the employers and the workers.  
 144-154. *Education — public libraries.*

## Tucuman

Constitution of 24 June 1907<sup>2</sup>

- 1-33. *Declaration of Rights.*  
 34. The Legislature shall regulate labour and health conditions in factories and especially the work of women and children.  
 141. *Education.*

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<sup>1</sup> Spanish text in *Digesto Constitucional de la Nación Argentina*, Imprenta del Congreso Nacional, Buenos Aires, 1941, pp. 675-729.

<sup>2</sup> *Ibid.*, pp. 731-770.



## TERRITORIES OF ARGENTINA

**Federal Capital**Law Declaring Buenos Aires the Capital<sup>1</sup>*Law 1029 of 21 September 1880*

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Organic Law of the Capital<sup>2</sup>*Law 1260 of 1 November 1882, as Amended*

.....

**National Territories**Law Concerning the Organisation of the National Territories<sup>3</sup>*Law 1532 of 18 October 1884, as Amended*

.....

**BOLIVIA**Political Constitution of Bolivia<sup>4</sup>*30 October 1938*

## SECTION II

*Individual Rights and Guarantees*

5. Slavery does not exist in Bolivia. No servitude of any kind is recognised, and no one shall be compelled to render personal labour without just compensation and without his full consent.

Personal services shall only be required when the law so provides.

6. Every person has the following fundamental rights, in conformity with the laws which regulate their exercise:

<sup>1</sup> *Recopilación de Leyes usuales, Decretos, Reglamentos, Resoluciones, etc. de la República Argentina*, J. Lajouane & Cie., Buenos Aires, Vol. 1, 1934, pp. 1-2, or *Digesto municipal de la Ciudad de Buenos Aires*, Publicación oficial, 1939, p. 1.

<sup>2</sup> *Ibid.*

<sup>3</sup> *Recopilación*, pp. 28-43, or *Digesto*, pp. 5-17.

<sup>4</sup> English translation by courtesy of the American Law Institute; for Spanish text, see *Constitución política de Bolivia*, official edition, La Paz, 1938, or Andrés María LAZCANO Y MAZON: *Constituciones políticas de América*, Vol. I, pp. 249-280.

(a) To enter, remain in, travel through, and depart from the national territory.

(b) To engage in any work, business, or industry, under conditions which are not harmful to the community.

(c) To express his ideas and opinions freely, by any method of publication.

(d) To assemble and associate for any specific purpose not opposed to the security of the State.

(e) To make petitions individually or collectively.

(f) To receive an education.

(g) To teach, under the supervision of the State.

14. . . . .

Under no circumstances shall the rack be used, or any other kind of torture.

15. Property shall never be confiscated as a political punishment.

. . . . .

17. Property is inviolable, provided it performs a social function; expropriation may be carried out for reasons of public utility, if done according to law and a fair indemnity is paid beforehand.

18. Aliens or foreign enterprises, as regards property, have the same status as Bolivians, and may under no circumstances demand special treatment or resort to diplomatic claims, unless there is a denial of justice.

19. Within fifty kilometers of the borders, foreigners may not acquire or possess, under any pretext, land or subsoil rights, directly or indirectly, as individuals or corporations, under penalty of forfeiting to the State property so acquired, except in case of national necessity expressly declared by law.

20. No tax is binding unless imposed by the Legislative Power, in conformity with the provisions of this Constitution. Persons prejudiced may enter an action before the proper judicial authority to contest illegal taxes. Municipal taxes are binding when the requirements of this Constitution have been observed in their imposition.

21. Taxes and public burdens are equally binding upon all. Their imposition, apportionment, and cancellation shall be of a general character and shall be determined on the basis of the economic capacity of the taxpayer.

22. Property of the Church, religious congregations, and charitable institutions, enjoys the same guarantees as that belonging to individuals, and shall be subject to the obligations and limitations which the law may provide.

23. Every person enjoys civil rights; their exercise is regulated by the civil law.

25. Infamous penalties and the penalty of civil death do not exist.

Capital punishment shall be imposed only in cases of murder, parricide, and treason to the country, treason being understood as complicity with the enemy during a foreign war.

26. Highways open to individuals shall be for public use. A special law shall regulate the exercise of this right, as well as the collaboration between the State and individuals for their maintenance.

### SECTION XIII

#### *Economic and Financial System*

106. The economic system shall be governed essentially by principles of social justice which tend to ensure for all inhabitants an existence worthy of human beings.

107. The following are under the original ownership of the State, in addition to property now given that status by law: all substances of the mineral kingdom, uncultivated land with all its natural wealth, lake, river and medicinal waters, as well as all physical forces susceptible of economic development. The law shall

establish the conditions of this ownership, as well as the conditions governing the rights of individuals in such property.

108. The State may regulate commerce and industry by law, when urgently required by public security or necessity. It may also, in the same circumstances, assume over-all direction over the national economy. This intervention shall be exercised in the form of control, stimulus, or direct operation.

109. Petroleum, owned either privately or by the Government, shall be exported only through the State or some agency representing the State.

110. All enterprises established for exploitation, development, or trade in the country shall be considered national, and shall be subject to the sovereignty, the laws, and the authorities of the Republic.

111. The revenue of the State is divided into three classes: national, departmental, and municipal, and shall be administered independently by their treasuries. No money shall be taken from these treasuries except in conformity with the respective budgets.

An organic law shall classify national, departmental, and municipal income.

The resources of the departments, municipalities, or universities, collected by offices under the national treasury, may in no wise be centralised in said treasury.

112. The Legislative Power shall fix the respective budget for each fiscal year. The Executive shall have power only to modify or alter items therein, with the prior advice of the Cabinet.

113. Bills concerning national and departmental budgets shall be presented by the Executive to Congress at its first regular session. After the report of the respective commission is submitted, said bills shall be immediately considered, in permanent session, until they are approved.

114. Any bill involving expenditures by the State shall indicate, at the same time, the manner of raising the funds and how they are to be applied.

115. The public debt is guaranteed. Any commitment of the State, made according to law, is inviolable.

116. The floating debt contracted by the Executive during any fiscal year shall be extinguished without fail in the following fiscal year.

117. The general statement of income and expenditures of each fiscal year shall be submitted by the Secretary of the Treasury to Congress at the first regular session.

118. Autonomous or semi-autonomous governmental agencies shall also annually present to Congress the statement of their revenue and expenses, accompanied by a report of the Comptroller General of the Republic.

119. The departments and municipalities shall not create prohibitory or protective systems which may affect the interests of other divisions of the Republic, nor shall they pass ordinances favouring the inhabitants of the department to the exclusion of other Bolivians.

120. There shall be an accounting office and a Comptroller, to be denominated Comptroller General of the Republic. The law shall determine the duties and responsibilities of the Comptroller General and of the officials under his jurisdiction. The Comptroller General shall be directly responsible to the President of the Republic, and shall be appointed by him from a panel of three nominated by the Senate; he shall receive the remuneration of a Minister of State and shall enjoy the same irremovability as Justices of the Supreme Court.

## SECTION XIV

### *Social Order*

121. Labour and capital, as factors of production, enjoy the protection of the State.

122. The law shall provide regulations for compulsory insurance to cover sickness, accidents, involuntary unemployment, disability, old age, maternity and death, discharge and reimbursement of employees and workers, the work of women and minors, the maximum working day, the minimum salary, the weekly day of rest and holidays, annual vacations and maternity leave with pay, medical and hygienic attention and other social and protective benefits for workers.

123. The State shall promote, by means of appropriate legislation, the organisation of co-operatives of every kind.

124. The State shall enact legislation to protect the health and lives of labourers, employees, and agricultural workers; it shall take steps to make sure that they are provided with sanitary dwellings, and shall promote the construction of low-cost houses; it shall likewise take steps to ensure the technical training of manual workers.

The authorities shall also regulate the conditions of public safety and health under which professions or trades shall be practiced, as well as work in the fields and mines.

125. The freedom of professional and labour organisation is guaranteed, and the collective labour contract is recognised.

126. The right to strike is recognised, as a means of defence for the workers, in accordance with the law.

127. The law shall determine the system of participation by employees and workers in the profits of the enterprises.

128. The State, by means of courts or special bodies, shall settle controversies between employers and employees or workers.

129. The rights and benefits recognised by law as belonging to workers and employees may not be waived. Agreements to the contrary, or agreements which tend to frustrate their purpose, are null and void.

130. Social assistance is a function of the State. The law shall set forth the conditions of this assistance. Sanitary assistance is obligatory and may be enforced.

## SECTION XV

### *The Family*

131. Marriage, the family, and maternity are under the protection of the law.

132. The law does not recognise inequalities among children; all have the same rights.

133. The laws shall provide for unattachable family estates.

134. The protection of the physical, mental and moral well-being of childhood is a primary duty of the State. The State shall defend the rights of children to a home, education, and sufficient assistance in the event they find themselves in a situation of abandonment, sickness, or misfortune. The State shall entrust the fulfilment of the provisions of this article to appropriate technical organisations.

## SECTION XVII

### *Communal System*

148. The communal Government is autonomous. In the capitals of departments, Provinces, and subdivisions of the latter, there shall be mayors provided with a living income, advised by a Deliberative Council, whose organisation and functions shall be determined by law. In the cantons there shall be communal agents.

The mayors shall be elected by the President of the Republic and the members

of the Deliberative Council by popular vote. They shall serve for a term of two years.

152. The duties of mayors are as follows:

- (1) To administer and supervise activities relating to hygiene, comfort, beautification, city planning, and recreation.
- (2) To uphold public morals.
- (3) To control the prices of necessities, as well as those of public amusements.
- (4) To supervise services of social assistance and welfare.
- (5) To encourage popular education.
- (6) To collect, administer and spend the municipal revenue.
- (7) To endeavour to supply food to the people, in agreement with the Deliberative Council.
- (8) To negotiate loans for public works of recognised necessity, with the previous authorisation of the Deliberative Council and approval of the Senate.
- (9) To call upon the public force for the enforcement of their resolutions.
- (10) To repress speculation and the rise in rents.

## SECTION XVIII

### *Cultural System*

154. Education is the highest function of the State. Public instruction shall be organised under a single school system. The obligation of school attendance is general from seven to fourteen years. Primary and secondary instruction of the State is gratuitous.

155. The State shall give economic assistance to talented students who for lack of means are unable to attend the higher grades, so that vocation and capacity, rather than the social or economic position of individuals, may be the determining factors.

156. Schools of a private character shall be subject to the same authorities, plans, programmes, and official regulations. The freedom of religious instruction is recognised.

157. Schools supported by charitable institutions shall receive the co-operation of the State.

158. Education in the primary, secondary, normal, and special grades shall be governed by the National Council of Education, which shall have technical and administrative autonomy. Its organisation and duties shall be determined by law.

159. The public universities are autonomous and equal in standing. Autonomy consists in the free administration of their resources, the appointment of their rectors, teaching and administrative personnel, the adopting of their own rules and plans of study, the approval of their annual budgets, the acceptance of legacies and donations, the making of contracts and the incurring of obligations to carry out their purposes and to maintain and develop their institutes and faculties. They may negotiate loans on the security of their property and resources, with prior legislative approval.

160. The public universities are the only ones authorised to grant academic diplomas. National degrees shall be granted by the Government in the name of the State.

161. The public universities shall be subsidised by the treasury with national funds, independently of its departmental, municipal, or own resources, in existence or to be created.

162. Education in all grades is subject to the protection of the State, exercised through the Ministry of Education.

163. The artistic, archaeological, and historical wealth, and that of a religious

origin, are the cultural treasure of the nation, are under the protection of the State, and may not be exported. The State shall protect the buildings and places which are declared of historical or artistic value.

164. The State shall promote the culture of the people.

## SECTION XIX

### *Rural Inhabitants*

165. The State recognises and guarantees the legal existence of the native communities.

166. Legislation pertaining to indigenous and agricultural matters shall be enacted taking into consideration the characteristics of the different regions of the country.

167. The State shall promote the education of the rural worker, by means of native educational centers of an integral character, embracing the economic, social, and pedagogic aspects.

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## BRAZIL

### Constitution of the United States of Brazil<sup>1</sup>

*10 November 1937, as Amended to 12 October 1942  
by Constitutional Laws 1-8*

Whereas, the legitimate aspirations of the Brazilian people for political and social peace, seriously disturbed by manifest factors of disorder, created by growing party dissensions, which a malicious demagogic propaganda attempted to transform into class warfare, and which, through the extreme force attained by the ideological conflicts, tended, in its natural process of development, to solve itself by violence, thus subjecting the Nation to the imminent threat of a disastrous civil war;

Whereas, the state of apprehension caused throughout the Country by the infiltration of communism, which was growing daily more widespread and deeper, calls for a remedy, both radical and permanent in character;

Whereas, the previously existing institutions did not furnish the State with the normal means for preserving and defending the peace, the safety and the well-being of the people;

With the support of the armed forces and yielding to the dictates of public opinion, both justifiably apprehensive of the dangers threatening the Union and of the swiftness with which our civil and political institutions were being undermined;

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<sup>1</sup> English translation from *New Constitutions of the United States of Brazil*, Rio de Janeiro, Brazil, pp. 3-301; for Brazilian text, see *Constituição dos Estados Unidos do Brasil e Leis Constitucionais NS 1, 2, 3, e 4*, Imprensa Nacional, Rio de Janeiro, 1941, or *Diário oficial*, 10 Nov. 1937, No. 257, p. 22,359; for the texts of Constitutional Laws 1 to 8, see *Diário oficial*, 17 May 1938, 20 Sept. 1940, 11 Mar. 1942, 13 May 1942, 3 Oct. 1942, and 13 Oct. 1942.

Now, therefore, it is resolved to ensure to the Nation its unity, its honour, and its independence and to the people of Brazil, under a régime of political and social peace, the necessary conditions for their security, their welfare and their prosperity;

The President of the Republic of the United States of Brazil decrees the following Constitution, which comes into effect as from this date, throughout the country:

#### THE NATIONAL ORGANISATION

1. Brazil is a republic, political power emanates from the people and is exercised in their name and in the interest of their well-being, their honour, their independence and their prosperity.

8. Each State is to organise its own services to meet its own particular interests and must pay for them out of its own resources.

*Sole paragraph.* A State which, for three consecutive years fails to collect sufficient revenue to maintain these services, shall be transformed into a Territory until its financial capacity shall have been re-established.

9. The Federal Government may intervene in the State, through the nomination, by the President of the Republic, of an interventor, who will assume, in the State, these functions which according to its Constitution, belong to the Executive Power, or those which, in accordance with the necessities and the requirements of each case, are given him by the President of the Republic:

(a) To prevent the imminent invasion of the National Territory by a foreign country or of one State by another, as well as to repeal both forms of invasion;

(b) To re-establish order which has been seriously disturbed in those cases in which the State will not or cannot do so;

(c) To administer the State, when, for any reason whatsoever, one of its powers shall be prevented from functioning;

(d) To reorganise the finances of a State which has suspended, for more than two consecutive years, the servicing of its funded debt, or which has failed to liquidate, after more than one year in arrears, the loan contracted with the Union;

(e) To assure the execution of the following constitutional principles:

1. Republican and representative form of Government;
2. Presidential Government;
3. Rights and guarantees assured by the Constitution.

(f) To ensure the execution of Federal laws and sentences.

*Sole paragraph.* The power to decree intervention rests with the President of the Republic in cases foreseen in sections *a*, *b*, and *c*; with the Chamber of Deputies in cases foreseen in sections *d*, and *e*; with the President of the Republic, when petitioned by the Supreme Federal Tribunal, in cases foreseen in section *f*.

10. The States shall have the obligation to provide the necessary measures, within their respective jurisdictions, to carry out such commercial treaties as the Union may enter into. Should they fail to do this within a reasonable time, the legislative power for such measures will devolve upon the Union.

13. The President of the Republic, during the recess of Parliament or during the dissolution of the Chamber of Deputies, may, if the necessities of the State should require such action, issue decree-laws regarding material within the legislative capacity of the Union, excepting the following:

- (a) Amendments in the Constitution;
- (b) Electoral legislation;
- (c) Budget;
- (d) Taxation;
- (e) Institute monopolies;
- (f) Currency;
- (g) Public Loans;
- (h) Alienation and mortgaging the property of the Union.

*Sole paragraph.* Decree-laws, in order to be issued, will depend upon the opinion of the National Economic Council, on those matters within its consultative capacity.

15. The Union will have sole jurisdiction:

I. To maintain relations with foreign countries, to nominate the members of the diplomatic and consular corps, to enter into treaties and international conventions;

V. To authorise the production of and to supervise the commerce of war material of whatever nature;

VI. To maintain the postal service;

VII. To exploit or to give in concession the telegraph services, radio-communication and aerial navigation, including landing facilities, as well as the railway systems which directly link maritime ports with the national frontiers or which cross State limits;

VIII. To create and to maintain custom houses and warehouses and to provide for the services of maritime and port police;

IX. To determine the basis and fix the scope of national education, organising the programmes which should be followed for the physical, intellectual and moral formation of childhood and youth;

X. To take a general census of the population.

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16. The Union shall have the sole jurisdiction to legislate on the following matters:

III. The naturalisation, entry and departure from National Territory, emigration and immigration, passports, expulsion of foreigners from the National Territory and the prohibition of remaining or staying temporarily in same, extradition;

IV. The manufacture and commerce of arms, munitions and explosives;

V. The public well-being, order, tranquillity and safety, when conditions demand an uniform regulation;

VI. Federal finances, questions of currency, of credit, of exchanges and of banking;

VII. Foreign and inter-state commerce, exchange and transfer of funds abroad;

VIII. Monopolies or nationalisation of industries;

IX. The weights and measures, standards, title and guarantee of precious metals;

X. Mail, telegraph and radio communications;

XI. Communication and transportation by rail, by water, by air or highways whenever they have either an international or inter-state character;

XII. Coastwise transportation of merchandise, which will be permitted only on national ships;

XIII. Custom houses and warehouses; maritime, port and river police;

XIV. Federal property, mines, metallurgy, hydraulic power, water rights, forests, hunting and fishing and their exploitation;

XV. The unification and standardisation of electrical establishments and in-



stallations, as well as safety measures to be adopted in the electric power industry; the high tension lines, when these cross State limits;

XVI. The civil, commercial, aerial, labour, penal and judiciary codes;

XVII. The insurance regulation and its supervision;

XVIII. The theatrical and cinematographical regulation;

XIX. Co-operatives and institutions for keeping and investing the savings of the people;

XX. Copyright law, the press, the rights of association, of meeting, of free circulation; questions of civil status, including civil registration and change of name;

XXI. The rights of invention as well as patents, the protection of models, trade marks and other designation of merchandise;

XXIV. The control of national education;

XXVI. Organisation, training, justice and guarantee of the police forces of the States and their use as army reserves;

XXVII. The fundamental rules of defence and protection of public health and particularly of the health of children.

17. On matters, of the exclusive jurisdiction of the Union, the law may delegate to the States the power to legislate either to regulate or to cover the omissions in the Federal legislation, in matters which concern predominantly one or more States. In this case the law voted by the State Assembly only comes into effect when approved by the Federal Government.

18. Independent of authorisation, the States may legislate, even if there is a Federal law upon the subject, in order to cover the deficiencies or to meet local particularities, provided that such legislation does not dispense with, nor diminish the exigencies of the Federal law or, in the event that no Federal law exists, and until there is one, upon the following subjects:

(a) Subsoil resources, mining, metallurgy, water, hydro-electric power, forests, hunting and fishing and their exploitation;

(b) Radio-communications; their regulation, excepting the provision set forth in § 15 of article 16;

(c) Public relief, public hygiene, sanitariums, clinics, health resorts and medicinal springs;

(d) Public organisations for the purpose of extra-judicial conciliation between litigants or arbitration;

(e) Police measures for the protection of plants and herbs, against disease or noxious agents;

(f) Agricultural credit, including co-operatives for farmers;

(g) Judicial or extra-judicial procedure;

*Sole paragraph.* Both in the cases covered in this, as well as in the preceding article, provided that the Federal Legislative Power or the President of the Republic, shall have issued laws or regulations, covering the subject matter, the State law will have no effect in those parts, in which it is incompatible with the Federal law or regulation.

19. The law may establish that services, under the jurisdiction of the Federal Government may be executed by the States; in this case the Federal Executive Power will issue the regulations and instructions which the States must observe in carrying out these services.

20. The Union will have sole jurisdiction:

1. To decree taxes

(a) On the importation of merchandise from abroad;

(b) On the consumption of any kind of merchandise;

(c) On income or receipts of whatsoever nature;

- (d) On the transfer of funds abroad;
- (e) On services executed by its Government, business under its control, and its instruments or contracts regulated by Federal law;
- (f) In the Territories, those which are allowed the States by the Constitution.

II. Collect telegraphic and postal taxes and those for other Federal services; for the entry, and clearance of ships and aeroplanes; coastwise trade will be free for domestic merchandise and for foreign merchandise which has already paid the export duty.<sup>1</sup>

21. The States shall have sole jurisdiction:

- I. To decree the Constitution and the laws which are to govern them;
- II. To exercise all and every right which is not expressly or implicitly denied by the present Constitution.

22. The States may enter into agreements with the Federal Government, to delegate to functionaries of the Union the execution of laws, services, acts or decisions of their Government.

23. The States shall, subject to the limitation stated in article 35 letter (d), have exclusive jurisdiction:

I. To decree taxes on:

- (a) All territorial property, except urban;
- (b) The transfer of property in "causa mortis";
- (c) The transfer of property "inter vivos", including its incorporation to the capital of a corporation;
- (d) Sales and consignments made by merchants or producers; in the case of sales by small producers, as defined in State laws, they will be exempt;
- (e) On the exportation of merchandise of its own production up to a maximum of 10 per cent. "ad valorem", all additional being forbidden;
- (f) On industries and professions;
- (g) On acts emanating from their Government, business under their control or regulated by State law;

II. To collect taxes on State services.

§ 1. Tax on sales shall be uniform, irrespective of the source, purpose or type of merchandise.

§ 2. The tax on industries and professions shall be assessed by the State, and collected by the State and the municipality in equal parts.

§ 3. In exceptional cases, and with the consent of the Federal Council, the export tax may be temporarily increased beyond the limits of letter (e) of section I.

§ 4. The tax on the transmission of corporeal property will belong to the State in whose territory it is located; and the transmission "causa mortis" of

<sup>1</sup> Constitutional Law 4 of 20 Sept. 1940 amplified the provisions of article 20 as follows:

It is within the exclusive competence of the Union, in addition to the powers attributed to it by article 20 of the Constitution, to tax the production of, commerce in, and the distribution and consumption, including the importation and exportation, of national coal and liquid fuels and lubricants, irrespective of their origin.

The tax on liquid fuels and lubricants shall take the form of a single tax falling upon each type of product. The States and municipalities shall receive a share in the proceeds of this tax proportionate to the consumption in their respective territories and this share shall be applied for the maintenance and development of their highway systems.

incorporeal property, including securities and credits to the State in which the succession occurs. When this has occurred in another State or abroad, the tax shall be payable to the State in whose territory the inheritance shall have been liquidated or transferred to the heirs.

24. The States may create other forms of taxation. Double taxation is, however, forbidden, and the tax decreed by the Union will prevail where the jurisdiction is concurrent. It is within the province of the Federal Council, either on its own initiative or at the request of the taxpayer, to declare that there is double taxation, and suspend the collection of the State tax.

25. The National Territory shall constitute one single unit, from the commercial, economic and customs point of view; no customs barriers or other traffic restrictions may be established; States, as well as municipalities, are therefore forbidden to collect, under any denomination whatsoever, inter-State, inter-municipal, transit or transport taxes, which will hinder the free circulation of goods and persons and the vehicles which transport them.

26. The municipalities are to be organised in such a manner as to assure them autonomy in all that concerns their special and peculiar conditions, particularly:

(c) The organisation of public services of local character.

28. Besides the attributes given to them by, article 23, paragraph 2, of the present Constitution and those which may be transferred to them by the State, the municipalities shall have:

- I. License taxes;
- II. Tenement tax, as well as urban land tax;
- III. Taxes on public amusements;
- IV. Taxes on municipal services.

32. The Union, the States and the municipalities are forbidden:

- (a) To create any distinction between natural born Brazilians or inequalities between the States and the municipalities;
- (b) To establish, subsidise or hinder the exercise of religious cults;
- (c) To tax goods, income or services of each other.

*Sole paragraph.* Public service concessions will enjoy no tax exemption, except those which may have been granted this privilege by special law and for the public welfare.

34. The Union is forbidden to decree taxes which are not uniform throughout the National Territory or which discriminate in favour of the ports of one State against those of another.

35. It is forbidden to the States, to the Federal District and to the municipalities:

- (b) To establish tax discrimination or of any other sort between goods or merchandise because of its source of origin;
- (c) To contract foreign loans without the previous consent of the Federal Council.
- (d) To place direct or indirect taxes upon the production or commerce including the distribution and exportation of national coal and liquid fuels and lubricants of any origin.<sup>1</sup>

36. The following are under the Federal dominion:

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<sup>1</sup> Letter (d) was added by Constitutional Law 3 of 18 Sept. 1940.

(a) The property belonging to the Union under the terms of the laws now in force;

(b) Lakes and streams on the lands of its dominion, or which touch more than one State, or serve as boundaries with other countries or which extend into foreign territories;

(c) River and lake islands in the frontier zones.

37. The following are under State dominion:

(a) All property of the States, according to the terms of the present legislation, with the exception of the restrictions of the preceding article;

(b) The margins of navigable rivers and lakes, devoted to public use, provided they do not fall, by any title, to Federal, municipal or private dominion.

### THE NATIONAL ECONOMIC COUNCIL

57. The National Economic Council is to be composed of representatives of the various branches of national production, chosen from persons qualified by their special ability, by professional associations or syndicates recognised by law, and ensuring an equal representation of employers and employees alike.

*Sole paragraph.* The National Economic Council will be divided into five sections:

(a) The section of industry and crafts;

(b) The section of agriculture;

(c) The section of commerce;

(d) The section of transportation;

(e) The section of credit.

58. The designation of the representatives of the associations or syndicates is made by the respective superior deliberative bodies.

59. The National Economic Council will be presided over by a Minister of State, designated by the President of the Republic.

§ 1. The President of the Republic will also have the power to appoint three members for each section of the National Economic Council, selecting them from persons qualified by their special capacity.

§ 2. At the meetings of the various sections, organs and committees or in General Assembly of the Council, when special authorisation is granted by the President of the Republic, the Members of his Cabinet, Directors of Ministries, representatives of the State Governments, may participate, but may not vote; likewise and without the right to vote, representatives of the associations and syndicates of high standing in some branch of national production, may participate in the meetings when matters of their special interest are being considered.

60. The National Economic Council will organise its permanent technical council, and may, further, contract the services of experts for the study of certain problems, submitted to its opinion or concerning the investigations recommended by the Government or necessary in drafting projects of their own initiative.

61. The following are attributes of the National Economic Council:

(a) To promote the corporative organisation of national economy;

(b) To establish rules to the assistance given by associations, syndicates or institutions;

(c) To draw up rules for collective contracts of labour between syndicates of the same category of production or between associations representing two or more categories;

(d) To report on all projects, whether initiated by the Government or by either of the Chambers, which directly interest national production;

(e) To organise, either by its own initiative or at the request of the Government, investigations concerning the conditions of labour, agriculture, industry, commerce, transportation and credit, with a view of increasing, co-ordinating and perfecting national production;

(f) To prepare the basis for the foundation of research institutes which, considering the diversity of the economic, geographic and social conditions of the country, shall have for their object:

- I. To rationalise the organisation and administration of agriculture and industry;
- II. To study the problems of credit, distribution and sale and those relating to the organisation of labour;

(g) To report on all questions relative to the organisation and recognition of syndicates and professional associations;

(h) To propose to the Government the creation of corporative institutions of professional activities.

62. The bases referred to in letters *b* and *c* of the preceding article, will only become effective if approved by the President of the Republic.

63. At any time, powers may be vested in the National Economic Council, through a plebiscite to be regulated by law, to legislate on certain or all matters pertaining to their special province.

*Sole paragraph.* The initiative in calling the plebiscite will be within the power of the President of the Republic, who will specify in the respective decree, the conditions under which and the matters upon which the National Economic Council may legislate.

#### LAWS AND RESOLUTIONS

65. All projects of law which affect national economy, in any of its branches, must be submitted to the National Economic Council, before being discussed by Parliament.

*Sole paragraph.* Projects initiated by the Government and which have been favourably reported on by the National Economic Council, will be submitted for a single reading by each Chamber. The Chamber to which the projects are submitted will limit its action to either accepting or rejecting them. Before discussion in the Legislative Chamber, the Government may withdraw the projects or amend them, consulting the National Economic Council once more, if the modifications entail substantial alterations.

#### THE PRESIDENT OF THE REPUBLIC

82. The Electoral College of the President of the Republic is composed of:

(a) The electors, designated by the municipal chambers, each State electing a number of electors in proportion to its population; however, no State may exceed the maximum number of twenty-five;

(b) Fifty electors, designated by the National Economic Council, chosen, in equal numbers, among employers and employees;

(c) Twenty-five electors, designated by the Chamber of Deputies and twenty-five by the Federal Council, from among outstanding citizens.

*Sole paragraph.* Members of the National Parliament or of the Legislative Assemblies of the States, cannot be designated as electors of the President of the Republic.

#### INDIVIDUAL RIGHTS AND GUARANTEES

122. The Constitution assures to all Brazilians and foreigners, residing in the country, the right to liberty, to individual security and to ownership, under the following terms:

- I. All are equal before the law;
- II. All Brazilians enjoy the right of free circulation throughout the National Territory and can fix their residence at any point and there acquire real estate and freely exercise their activities;
- III. Public offices are equally accessible to all Brazilians, observing the requirements as to capacity prescribed in the laws and regulations;
- IV. All individuals and religious sects may freely and publicly exercise their cult, meet for this purpose and acquire real estate, observing the provisions of common law and the requisites of public order and good usage;
- V. The cemeteries shall be secular in character and shall be administered by the municipal authorities;
- VII. The right to denounce or petition the authorities, in defence of rights or general interests;
- VIII. Freedom of choice as to profession or type of work, industry or commerce, observing, however, the conditions of capacity and the restrictions imposed by law for the general welfare;
- IX. Liberty of association, as long as the objectives are neither contrary to the penal code nor to good usage;
- X. All have the right to organise public meetings, if peaceful and without weapons. Open-air meetings may be required to submit to the formality of declaring their purpose and may be prohibited in case of imminent danger to public safety;
- XIII. There will be no life sentences. The penalties established or set forth in a new law, cannot be retroactive. In addition to cases foreseen in the military legislation during wartime the law may apply the death penalty for the following crimes:

- (d) To attempt, with the help or subsidy of a foreign State or of an organisation of international character, to change the political or social order established by the Constitution;
- (e) To attempt by violent means to subvert the political and social order, with the purpose of gaining possession of the State, for the establishment of the dictatorship of a social class;
- (j) For homicide committed from futile motives or with extreme perversity;

XIV. The right to own property, save for disappropriation for public needs or public good or utility and then only by previous indemnification, and in the case provided for in the second paragraph of article 166. Its nature and limits shall be defined in the laws which regulate its use;

XV. All citizens have the right to express their thoughts, orally, in writing, in print or pictorially, within the conditions and limits fixed by law;

The law may prescribe:

- (a) In order to guarantee peace, order and public safety, the censorship of the press, of the theatre, of the cinema and radio broadcasting; the

- competent authority having the right to prohibit the circulation, the broadcast or the performance;
- (b) Measures to prevent meetings contrary to public morals and good usage, as well as those especially directed against the protection of childhood and youth;
  - (c) Measures for the protection of the public interest, the well-being of the people and the safety of the State.

A special law will regulate the press, in accordance with the following principles:

- (a) The functions of the press will be considered as of a public character;
- (b) No journal can refuse to publish Government communications, within the limits fixed by law;
- (c) To every citizen is guaranteed the right to have printed, gratuitously, in any paper which slanders or defames him, a reply, defence or correction;
- (d) Anonymity is prohibited;
- (e) The responsible director will be subject to prison sentence and the publishing company to a fine, for violations;
- (f) The machinery, types and other typographical equipment, used in the printing of the paper, constitute the guarantee for the payment of the fine, reparation or indemnity and for the expenses of the suit in which publication is condemned for violation of the law, except such eventual benefits as may be enjoyed, in virtue of a labour contract between the publishing company with its employees. The guarantee may be substituted by a bond deposited at the beginning of each year, the amount of which will be fixed by the competent authority, in accordance with the nature, the importance and the circulation of the paper;
- (g) Foreigners as well as companies whose shares are issued to bearer, cannot be owners of journalistic enterprises; it is also forbidden the former, as well as judicial entities, to be shareholders of such companies. The management of papers, as well as their intellectual, political or administrative direction, may only be exercised by natural born Brazilians.

XVII. Crimes directed against the existence, the safety or the integrity of the State, the care and investment of the savings of the people, shall be submitted to trial and judgment before a special tribunal in the form which the law may prescribe.

123. The specification of guarantees and rights mentioned above does not exclude other guarantees and rights resulting from the form of government and the principles set forth in the Constitution. The use of these rights and guarantees shall be limited to the public welfare, the rights and the necessities for the protection of the well-being of the country, the general peace and order, as well as the demands of the Nation's safety and that of the State.

#### THE FAMILY

124. The family, constituted by indissoluble marriage, is under the special protection of the State. Large families will be granted compensation in proportion to their necessities.

125. The complete education of their offspring is the first duty and the natural right of parents. The State will not hold itself aloof to this duty, but will collaborate, either in a principal or secondary manner, in order to facilitate the execution or to meet the deficiencies and omissions of private education.

126. To natural children, in order to facilitate their recognition, the law will

grant them equality with legitimate children, extending to the former the same rights and duties which the parents have to the latter.

127. Childhood and youth must be the object of special care and guarantee on the part of the State, which will take all measures to assure them physical and moral conditions of healthy life and the harmonious development of their faculties.

The moral, intellectual or physical abandonment of childhood and youth indicates a grave fault on the part of those who are responsible for the safeguard and education and imposes, on the State, the burden of providing the necessary comfort and care of their physical and moral preservation. Indigent parents have the right to invoke the aid and protection of the State for the maintenance and education of their offspring.

#### EDUCATION AND CULTURE

128. Art, science and their teachings are open to the initiative of the individual or to that of associations, both public and private.

It is the duty of the State to contribute, both directly and indirectly, towards the stimulation and development of them, assisting or founding artistic, scientific and educational institutions.

129. To the childhood and youth who lack the necessary resources to obtain an education in private institutions, it is the duty of the Nation, the States and the municipalities, to assure them, by founding public educational institutions of all grades, the possibility of receiving an education adequate to their abilities, aptitudes and vocational tendencies.

Pre-vocational and professional education designed for the classes less favoured, is the first duty of the State. It should carry out this duty by founding institutions of professional instruction and subsidising those established on the initiative of States, municipalities and individuals or private or professional associations.

It is the duty of industrial and economic syndicates, to create, in its own particular sphere, apprentice schools for the children of their workmen or their associates. The law will regulate the fulfilment of this duty, the power which belongs to the States regarding such schools, as well as the assistance, facilities and subsidies which the public authorities will grant them.

130. Primary education is obligatory and free. Those better favoured are not thereby excluded from the duty of helping those less favoured; thus, on matriculation, each student will be asked to make a moderate monthly contribution for the school fund, unless he alleges, or it is evident, that he is unable to do so.

131. Physical education, civil teachings and manual training will be obligatory in all primary, normal and secondary schools; no school of any of these grades will either be approved or recognised without meeting this requirement.

132. The State will found institutions or will give assistance and protection to those founded by civic associations, both with the same objective of organising, for the youth, annual period of work in the fields and workshops, so as to promote moral discipline and physical development, in such a manner as to fit them to fill their duties towards the well-being and defence of the Nation.

133. Religious instruction can be included in the curriculum of primary, normal and secondary schools. However, it may not be made an obligatory subject for teachers or professors, nor attendance be made compulsory for the pupils.

134. The historical, artistic and natural monuments, as well as the scenery or the localities particularly favoured by nature, will enjoy the protection and special care of the Nation, of the States and of the municipalities. Offences committed against these will be considered equivalent to offences committed against national property.



## THE ECONOMIC ORDER

135. In private initiative, in the creative power of the individual to organise and to invent, exercised within the limits of the public welfare, lies the richness and prosperity of the Nation. The intervention of the State in the economic field is only legitimate in so far as it supplies the deficiencies of private initiative and co-ordinates the factors of production, in such a manner as to avoid or solve their conflicts and to introduce, into the play of individual competition, the thought of the interests of the Nation, represented by the State.

The intervention in the economic field may be either direct or indirect, in the form of control, incentive or direct management.

136. Labour is a social duty. Intellectual, technical and manual labour has the right to the protection and special care of the State.

To all is guaranteed the right to exist by means of their honest toil, which, as the means of individual subsistence, constitutes an asset which is the duty of the State to protect, guaranteeing to them favourable conditions and means of protection.

137. Labour legislation will observe, in addition, the following principles:

(a) Collective labour contracts made with legally recognised associations of employers, workers, artists and experts, shall be binding to all the employees, workers, artists and experts which they represent;

(b) Collective labour contracts must stipulate their duration, the amount and form of wage, the internal discipline and the hours of work;

(c) The form of wage shall be that which is most appropriate to the requirements of the workers and the company;

(d) The workman shall have the right to a weekly rest on Sundays, and, when the technical requirements or needs of the company will allow, on civic and religious holidays, in accordance with local tradition;

(e) After one year of uninterrupted service in a company, the worker shall have the right to an annual vacation with pay;

(f) In continually operating companies, the cessation of employment, to which the worker has not been the cause, and when the law does not guarantee him stability of employment, entitles him to a compensation proportionate to his years of service;

(g) In continually operating companies, the change in ownership does not rescind the labour contract; the employees retaining, in relation to the new employer, the rights which they had in relation to his predecessor;

(h) A minimum wage, which will satisfy in accordance with the conditions of each region, the normal necessities of labour;

(i) A working day of eight hours, which may be reduced but can only be increased in the cases provided by law;

(j) Night work, except in cases where it is done regularly by shifts, shall be remunerated with a rate superior to that of day work;

(k) Prohibition of work by children less than fourteen years of age; of night work by children under sixteen and, in industries detrimental to health, of children under eighteen and women;

(l) Medical and hygienic assistance to the worker and to the pregnant mother, assuring to the latter a period of rest before and after the confinement, without loss of salary;

(m) The institution of old-age, invalidity, and life insurance and insurance for accident in line of duty;

(n) Workmen's associations are obliged to render their associates aid and assistance, in regard to administrative and judicial procedure relating to work accident insurance and social insurance.

138. Professional or trade association is free. However, only a syndicate legally recognised by the State, has the right to be the legal representative of those who participate in that category of production for which it was constituted, and to defend their rights before the State and the other professional associations, to enter into collective labour contracts, binding on all their associates, to levy contributions and to exercise towards them the functions delegated by the public authority.

139. In order to diminish disputes arising between employers and employees, regulated in the social legislation, there is created a labour judicial procedure which will be regulated by law and to which will not apply the provisions of this Constitution, as to Province, enrolment, and the prerogatives of common justice.

The strike and lock-out are declared anti-social instruments, harmful to labour and to capital and incompatible with the superior interests of national production.

140. Production will be organised in corporations and these, as representative entities of the forces of national labour, placed under the aid and protection of the State, are the organs of the State and exercise functions delegated by the public authority.

141. The law will encourage savings by the people, assuring to them special guarantees. Crimes committed against the savings of the people, are considered equal to crimes committed against the State, the law imposing grave penalties and prescribing a form of indictment and trial, which will assure its prompt and adequate punishment.

142. Usury shall be punished.

143. Mines and other subsoil wealth, as well as waterfalls, constitute property distinct from ownership of the soil for purposes of exploitation or industrial use. The industrial use of mines and mineral deposits, of streams and water power, even when privately owned is dependent on Federal authorisation.

I. The authority shall only be granted to Brazilians or undertakings composed of Brazilian shareholders provided that the Government may in individual cases, permit or grant in the public interest the utilisation of waterfalls and other sources of hydraulic power by undertakings which are already carrying on public utilities covered by paragraph 4 or those which are organised as national companies, subject always to the reservation to the proprietor of preference in the working or participation in the profits<sup>1</sup>;

II. The use of water power of small output and for the sole use of the owner does not require authorisation;

III. The States with their respective territories will exercise the attributes of this article provided that they satisfy the conditions established by law among which that of possessing the necessary technical and administrative services;

IV. Waterfalls already in industrial use on the date of this Constitution, as well as the exploitation of mines under the same conditions, even if temporarily closed down, do not require authorisation.

144. The law will regulate the progressive nationalisation of mines, mineral deposits and waterfalls or other sources of power, as well as these industries considered basic or essential to the economic or military defence of the Nation.

145. Banks of deposit and insurance companies may only operate in Brazil if their shareholders are Brazilians. Banks of deposit and insurance companies already authorised to operate in the country will be given a reasonable period in which to comply with the requirements of this article.

146. Organisations which are concessionaries of Federal, State or municipal services, must have their management contain a majority of Brazilians or delegate all the powers of management to Brazilians.

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<sup>1</sup> This paragraph is given as amended by Constitutional Law 6 of 13 May 1942.

147. The Federal law will regulate the supervision and revision of the rates of public services, operated by virtue of concessions, so that capital may receive, for the general good, a just and adequate return and also attend properly to the demands for expansion and betterment of the services.

The law will apply to concessions made during the previous régime as to the contractual rates fixed for the entire life of the contract.

148. Any Brazilian who, not being either a rural or urban landowner, shall occupy continuously, for ten years, without opposition nor recognition of other ownership, a plot of land not exceeding ten hectares, and makes it productive with his own labour, and having his dwelling thereon, will acquire ownership, through a declaratory judgment, duly registered.

149. The proprietors, charterers and commanders of national ships, as well as the crews, on a two-thirds basis, must be natural born citizens; harbour, port, river and lake pilots must be, likewise, natural born citizens.

150. The liberal professions can only be exercised by natural born and naturalised citizens who have done their military service in Brazil, excepting those who are legally exercising their profession on the date of this Constitution and the cases of international reciprocity admitted by law. Only natural born citizens are allowed to revalidate professional diplomas, issued by foreign institutions of learning.

151. The entry, distribution and settlement of immigrants on National Territory will be subject to the requirements and conditions which the law shall determine; in no case may the immigration from each country exceed, in any one year, the limit of two per cent. of the total of its nationals residing in Brazil during the previous fifty years.

152. Inheritance of property of foreigners, situated in Brazil, shall be regulated in the national law in favour of the Brazilian spouse and of the children of the marriage, provided that the statute of "de cujus" is not more favourable.

153. The law will determine the percentage of Brazilian employees which must, necessarily, be maintained in the public services, operating under a concession, and in industrial and commercial firms and establishments.

154. The rights of Indians to the possession of the lands on which they are permanently located, will be respected; they are, however, forbidden to alienate them.

155. No concession of lands of more than ten thousand hectares may be made, without obtaining, in each case, previous authorisation of the Federal Council.

#### PUBLIC EMPLOYEES

156. The Legislative Power will organise a Statute of Public Employees, which will obey the following principles, and which are in force, as from this date:

(f) Employees, who shall have been incapacitated as a result of an accident in the pursuit of their duties, shall be retired with full pay, whatever the length of their service may be;

(h) Employees shall have the right to yearly vacations, without loss of pay, and the pregnant mother shall have three months' leave on full pay.

#### NATIONAL SECURITY

165. Within a strip of territory one hundred and fifty kilometers wide along the frontiers, no concession of lands or means of communication can be made without a hearing of the Supreme Council of National Security and the law will

provide that in the industries located within the limits of the strip referred to, there must be a predominance of Brazilian capital and labour.

*Sole paragraph.* Industries which concern national security, may only be established within this hundred and fifty kilometer strip along the frontiers, after consulting the National Security Council, which will draw up a list of them, and may, at any time, revise and change it.

Constitution of 24 February 1891, as Amended 3 September 1926<sup>1</sup>

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Constitution of 16 July 1934<sup>2</sup>

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## STATES OF BRAZIL

*The Constitutions of the States of Brazil contain provisions, which in many cases enter into considerable detail, dealing with social and economic development including nation-building services, protection of the family and of youth, public health, education, the development of industry and agriculture, immigration, land settlement and similar subjects. These Constitutions have lost much of their importance as the result of the development of centralised control of a social and economic policy under the Federal Constitution of 1937, but it has been thought desirable to include extracts from the Constitutions of a few typical States and to give references to the other Constitutions with indications of the relevant articles.<sup>3</sup>*

### Alagoas

Constitution of 16 September 1935<sup>4</sup>

123. *Declaration of Rights.*

124-130. *The Economic and Social Order.*

<sup>1</sup> English translation of 1891 text in W. F. DODD: *Modern Constitutions*, Vol. I, pp. 149-181; English text of 1926 amendments in *British and Foreign State Papers*, Vol. 123, 1926, Part I, pp. 752-759; Brazilian text, including both original text and 1926 amendments, in J. DA C. PINTO DANTAS, Junior: *As Constituições do Brasil*, pp. 921-961. The 1926 amendments extended the competence of the Federal authorities in respect of social questions. For the Brazilian text of the Constitution of the Empire of Brazil of 25 Mar. 1824, see *ibid.*, pp. 883-920.

<sup>2</sup> English translation in E. HAMBLOCH: *The Brazilian Constitution*, 1935; Brazilian text in PINTO DANTAS: *op. cit.*, *As Constituições do Brasil*, pp. 39-114.

<sup>3</sup> The texts are available in *A Constituição Federal e as Constituições Estaduais*, Publicação do *Arquivo Judiciário*, *Jornal do Comércio*, 2nd edition, 1937, or PINTO DANTAS: *op. cit.*, *As Constituições do Brasil*. For earlier texts of the State Constitutions reference may be made to PAULO DOMINGUES VIANNA: *Constituição Federal e Constituições dos Estados*, Rio de Janeiro, 1911, 2 vols.

<sup>4</sup> Brazilian text in *A Constituição Federal e as Constituições Estaduais*, Publicação do *Arquivo Judiciário*, *Jornal do Comércio*, 2nd edition, 1937 (cited hereafter as *Jornal de Comércio*), pp. 169-182, or PINTO DANTAS: *op. cit.*, pp. 451-489.

## Amazonas

### Constitution of 2 June 1935<sup>1</sup>

In the sphere of its competence and in co-operation with the Union and the municipalities the State shall provide for the social order in accordance with the principles of justice and the necessities of collective life. With this end in view, it shall take special care:

- (a) To defend the public and private economy against any exploitation of a parasitic character which is not compatible with the higher interests of human life;
- (b) To assist the less favoured classes and help families whose sons shall be matriculated freely in the education and establishments of the State, books and school material being furnished freely to those who are recognised to be needy in accordance with conditions determined by law;
- (c) To protect old age, maternity and infancy in appropriate establishments and protect the infirm irrespective of their station giving them refuge in a manner which utilises their services and aptitudes as far as possible;
- (d) To protect youth and to encourage the development of its physical, moral, intellectual and civic energies;
- (e) To make effective eugenic education and to develop mental hygiene and the struggle against social diseases;
- (f) To control the sale of alcoholic liquors, establishing the necessary limitations in a form which protects persons of less than eighteen years against the vice of drunkenness;
- (h) To prohibit mendicity, providing for the placing in asylums of recognised beggars; to combat vagabondage by sending youthful vagabonds as apprentices to industrial or agricultural work and vagabonds who have attained their majority to correctional colonies in accordance with the terms of the relevant legislation;
- (l) To establish those who are without work in agricultural colonies, manufacturing establishments and undertakings or constructional projects assisted or paid for by the State or the municipalities;
- (m) To prevent the cornering of articles of primary necessity and increases in their prices in the cases provided for by law;
- (n) To pay the indemnities due in respect of occupational accidents occurring on public works undertaken by the State or the municipalities by payment within fifteen days from a definitive sentence from which there shall be no *ex officio* appeal;
- (q) To promote equilibrium between capital and labour and between production and consumption, ensuring the effective application of the Federal legislation concerning this subject, amplifying it, and remedying its shortcomings in all that concerns the social protection of the worker, special account being taken of the principles laid down in article 121 of the Federal Constitution;
- (r) To provide for the moral and material well-being of the working classes, special protection being afforded to women and young persons.

#### 122-125. *Public Health.*

126. In the economic order with a view to developing the public and private riches so as to make possible a better standard of life for its people the State shall promote:

- (a) The growth of agriculture, stock-raising and industries based on the exploitation of the forest;
- (b) Understandings with the Union for the organisation and mobilisation of the resources of the State, particularly those resulting from its fishing reserves;

<sup>1</sup> Brazilian text in *Jornal do Commercio*, pp. 47-63, or PINTO DANTAS: *op. cit.*, pp. 117-165.

- (c) The creation and maintenance of a laboratory for the study of the forest problem of the Amazon, creating for this purpose the necessary fund to finance it;
- (d) Studies and measures designed to furnish the State with convenient means of transport, especially in order to provide for the needs of its exports to the Brazilian coast;
- (e) Legal and fiscal facilities for co-operatives organised in accordance with the Federal legislation or State laws voted to this end;
- (f) Technical, economic and financial assistance, through the intermediary and at the discretion of the competent departments, to all initiatives designed for the establishment and improvement of industries based on the exploitation of the natural resources of the State and its agriculture.

127-130. *Miscellaneous provisions concerning concessions and taxation.*

131-133. *Statistics.*

134-139. *Continuation of Declaration of Social and Economic principles.*

140. Within the limits set by the Federal Constitution the State shall give special attention to the problem of its colonisation, considered from the economic-social point of view with a view to settling, fixing, concentrating or disseminating the native and foreign populations in the zones of the Amazon territories where their activities can be most useful.

141. The introduction of immigrants in large numbers, either by spontaneous emigration or as the result of the expansion and colonisation programmes of foreign countries, shall be subject to the control of the Government which shall make every three years enquiries into the action and social and economic utility of the colonial groups then existing in the territory of the State.

§1. The results of such enquiries when unfavourable shall be brought to the knowledge of the Federal Government in order that it may take the necessary measures.

§2. Brazilians who wish to establish themselves on Amazon land shall always receive advantages superior to those granted on any pretext to foreigners.

142. The Government shall enact laws for the social and economic assistance of the forest workers of the Amazon, granting them a régime of colonisation which raises their standard of life and assisting them when necessary with the co-operation of the Federal Government.

143-145. *Continuation of Declaration of Social and Economic Principles.*

146. In accordance with the directions laid down by the Union the State will combat illiteracy within its territory and will organise instruction of all grades, encouraging and developing arts and letters, the sciences, and culture in general.

147. Everyone has the right to education which shall be furnished in accordance with the spirit of article 149 of the Federal Constitution. . .

148-152. *Continuation of Education and Culture.*

153. Every industrial or agricultural undertaking in the interior of the State where more than fifty people including at least ten illiterate persons work shall be required to furnish them with primary instruction.

154-167. *Continuation of Education and Culture.*

168. The State of Amazonas will ensure, within its territory and the limits of its competence, the effectiveness of the rights which the Constitution of the Republic recognises and confers on nationals and foreigners.

## Bahia

### Constitution of 20 August 1935<sup>1</sup>

87. This Constitution assures to Brazilians and foreigners resident in the State

<sup>1</sup> Brazilian text in *Jornal do Commercio*, pp. 197-210, or PINTO DANTAS: *op. cit.*, pp. 529-568.

the inviolability of their rights to liberty, security, subsistence and property in accordance with the Federal Constitution.

88. With a view to ensuring to all a worthy existence and promoting the greater development of the general economy the law shall, within the limits of the competence of the State, with due regard to the peculiarities of the region, and in conformity with the principles of social justice, provide among other measures for:

- I. The encouragement of the popular economy;
  - II. The development of credit and savings;
  - III. The expansion and progressive extension of state control of the social insurance system applicable to all classes;
  - IV. The creation of producers', consumers' and credit co-operatives;
  - V. The prohibition of monopoly under any designation, with the exception of State monopolies, over any industry or economic activity in the public interest, rights to indemnisation being respected and the services within the competence of the municipal power being reserved;
  - VI. The encouragement by measures of protection including fiscal measures of small farmers and cattle raisers;
  - VII. The encouragement of small industries which use raw materials of the State;
  - VIII. The exemption from taxes and duties of the construction of houses for the poorer classes;
  - IX. The fixing of tariffs gradually decreasing for the greater distances and of priority of transport, minimum rates and other measures which ensure the easy acquisition of articles of primary necessity;
  - X. The encouragement of production by means of institutes which systematise it;
  - XI. The exemption from taxes, duties and expenses for the recognition and legitimation of titles to property referred to in article 125 of the Federal Constitution;
  - XII. The prohibition of the alienation of more than five hundred hectares of land to the same natural or juridical person;
89. *Exemption from taxation of small rural properties.*  
 90. *Preservation of virgin forest.*  
 91. The law shall establish the conditions of work in the State maintaining as a minimum the rights and guarantees of article 121 of the Federal Constitution.<sup>1</sup>  
 92. The State shall periodically review the standard of life in all of its territory with due regard to regional conditions in order to establish plans of organisation of the social assistance services.  
 93. *Duties of Council of Social Assistance.*  
 94. *Membership of Council of Social Assistance.*  
 95. *Education and Culture.*

### Ceara

#### Constitution of 24 September 1935<sup>2</sup>

- 107-111. *The Social and Economic Order.*  
 112-120. *Education and Culture.*  
 136. *Declaration of Rights.*

<sup>1</sup> The reference is to the 1934 Constitution.

<sup>2</sup> Brazilian text in *Jornal do Commercio*, pp. 105-125, or PINTO DANTAS: *op. cit.*, pp. 279-339.

**Espirito Santo**

Constitution of 11 August 1935<sup>1</sup>

133. *Declaration of Rights.*

134-146. *Education, the Public Interests and the Social Order.*

**Goias**

Constitution of 4 August 1935<sup>2</sup>

82. *Declaration of Rights.*

93-113. *The Economic and Social Order.*

**Maranhao**

Constitution of 16 October 1935<sup>3</sup>

118-124. *The Economic and Social Order.*

125-143. *Education.*

144. *Declaration of Rights.*

**Mato Grosso**

Constitution of 25 December 1935<sup>4</sup>

77. *Declaration of Rights.*

78-91. *The Economic and Social Order.*

92-99. *Education and Culture.*

**Minas Gerais**

Constitution of 30 July 1935<sup>5</sup>

86. *Declaration of Rights and Guarantees.*

87-88. *The Economic and Social Order.*

89-92. *Education and Culture.*

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<sup>1</sup> Brazilian text in *Jornal do Commercio*, pp. 211-224, or PINTO DANTAS: *op. cit.*, pp. 569-607.

<sup>2</sup> Brazilian text in *Jornal do Commercio*, pp. 313-324, or PINTO DANTAS: *op. cit.*, pp. 815-848.

<sup>3</sup> Brazilian text in *Jornal do Commercio*, pp. 73-87, or PINTO DANTAS: *op. cit.*, pp. 189-230.

<sup>4</sup> Brazilian text in *Jornal do Commercio*, pp. 325-335, or PINTO DANTAS: *op. cit.*, pp. 849-879.

<sup>5</sup> Brazilian text in *Jornal do Commercio*, pp. 303-311, or PINTO DANTAS: *op. cit.*, pp. 789-813.



**Para**

Constitution of 2 August 1935<sup>1</sup>

71. *Declaration of Rights.*  
74 - 76. *Education and the Family.*  
77 - 78. *Hygiene and Public Health.*

**Paraíba**

Constitution of 12 May 1935<sup>2</sup>

- 123 - 124. *Declaration of Rights and Guarantees.*  
125. - 133. *The Family, Education and Culture.*  
134 - 137. *The Social and Economic Order.*

**Paraná**

Constitution of 16 May 1935<sup>3</sup>

- 108 - 113. *The Social and Economic Order.*  
114 - 116. *Education and Culture.*

**Pernambuco**

Constitution of 10 July 1935<sup>4</sup>

113. *Individual Rights and Guarantees.*  
114 - 122. *The Family and Education.*  
123 - 125. *The Economic and Social Order.*

**Piauí**

Constitution of 18 July 1935<sup>5</sup>

119. *Rights and Guarantees.*  
120 - 121. *The Economic and Social Order.*  
122. *The Family.*  
123 - 132. *Education and Culture.*

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<sup>1</sup> Brazilian text in *Jornal do Commercio*, pp. 65-72, or PINTO DANTAS: *op. cit.*, pp. 231-278.

<sup>2</sup> Brazilian text in *Jornal do Commercio*, pp. 141-153, or PINTO DANTAS: *op. cit.*, pp. 379-414.

<sup>3</sup> Brazilian text in *Jornal do Commercio*, pp. 261-272, or PINTO DANTAS: *op. cit.*, pp. 679-710.

<sup>4</sup> Brazilian text in *Jornal do Commercio*, pp. 155-167, or PANTO DANTAS: *op. cit.*, pp. 415-450.

<sup>5</sup> Brazilian text in *Jornal do Commercio*, pp. 89-104, or PINTO DANTAS: *op. cit.*, pp. 231-278.

## Rio de Janeiro

Constitution of 22 January 1936<sup>1</sup>

123. *Declaration of Rights and Guarantees.*

124-133. *Social Assistance and the Economic Order.*

## Rio Grande do Norte

Constitution of 22 February 1936<sup>2</sup>

95-96. *The Family.*

97-107. *The Economic and Social Order.*

108-110. *Measures of Defence against the Effects of Drought (Secca).*

111-119. *Education and Culture.*

## Rio Grande do Sul

Constitution of 29 June 1935<sup>3</sup>

104-109. *Education and Culture.*

110. Every industrial or agricultural undertaking outside a centre with a school and where there are among the workers and their children at least ten illiterate persons shall be required to give them primary instruction free; the State shall indicate the teacher and furnish the school material.

111-112. *Continuation of Education and Culture.*

113. Within the competence ensured to the State by the Federal Constitution legislation shall promote:

- (a) The organisation and provision of free homes for the benefit of monogamous and indissoluble families, special attention being paid to the primary needs of the less favoured classes;
- (b) Persons, lodgings, insurance and medical assistance for public officials and their families;
- (c) Social insurance against sickness, occupational accidents, invalidity, temporary and involuntary unemployment, and life insurance;
- (d) The régime of eight hours for manufacturing, commercial and mining work, its gradual reduction by means of increases in the efficiency of the productive processes; minimum wages; the restriction of night work; the limitation of the periods of work of expecting and nursing mothers, with compulsory measures for the protection of their health; rest periods during working hours for minors between fourteen and eighteen years; the prohibition of work in manufacturing and mining for persons less than fourteen years of age;
- (e) The encouragement and recognition of institutes and corporations for economic purposes, consumers' and producers' co-operatives, and regular and stable professional associations, including those of the liberal professions;
- (f) As a general rule, the installation of nurseries by industrial undertakings which have women in their service.

<sup>1</sup> Brazilian text in *Jornal do Commercio*, pp. 225-239, or PINTO DANTAS: *op. cit.*, pp. 609-649.

<sup>2</sup> Brazilian text in *Jornal do Commercio*, pp. 127-139, or PINTO DANTAS: *op. cit.*, pp. 341-375.

<sup>3</sup> Brazilian text in *Jornal do Commercio*, pp. 287-301, or PINTO DANTAS: *op. cit.*, pp. 745-787.

114. Every Brazilian who, not being a proprietor, occupies for ten years continuously an area of land not exceeding ten hectares of the patrimonial domain of the State, without opposition by the latter, makes it productive by his labour, and has his dwelling place there, shall acquire ownership of the soil by means of a declaratory judgment which shall serve as his title for the purpose of inscription in the register of real property.

115. The State shall promote :

- (a) The formation of an individual concern for health from the earliest ages, through primary and elementary instruction ;
  - (b) Hospital services for the preservation of general health and the struggle against particular and contagious diseases, such as tuberculosis, leprosy, eye-scab, malaria, syphilis and venereal and verminous diseases ;
  - (c) The struggle against the use of poisons ;
  - (d) Maternity and child welfare services which may be separate or attached to existing hospitals ;
- Hospitals.*

116. The State shall maintain compulsory school medical inspection in establishments for primary instruction.

126. There is assured to Brazilians and foreigners resident in the State the inviolability of the rights to liberty, subsistence, individual security, and property, in the following terms :

- (12) Right of association for lawful purposes is guaranteed ; no association shall be compulsorily dissolved except by judicial decision.
- (25) Everyone has the right to provide for his own subsistence and that of his family by means of honest work ; the public power shall protect by law those who are needy.

127 -130. *Continuation of Individual Rights and Guarantees.*

### **Santa Catarina**

Constitution of 25 August 1935<sup>1</sup>

122. *Declaration of Rights.*

123 -124. *The Economic and Social Order.*

125 -138. *Education and Culture.*

### **Sao Paulo**

Constitution of 9 July 1935<sup>2</sup>

78. The State of Sao Paulo shall, within its territory and the limits of its competence, secure to nationals and foreigners the effectiveness of the rights and guarantees which the Federal Constitution recognises and confers.

79. The State and municipalities shall co-ordinate and ensure the social services, creating the necessary specialised departments, in order to :

- (a) Promote the protection of the sick ;
- (b) Stimulate eugenic education ;
- (c) Protect maternity and infancy ;

<sup>1</sup> Brazilian text in *Jornal do Commercio*, pp. 273-285, or PINTO DANTAS: *op. cit.*, pp. 709-746.

<sup>2</sup> Brazilian text in *Jornal do Commercio*, pp. 251-260, or PINTO DANTAS: *op. cit.*, pp. 651-678.

- (d) Succour large families;
- (e) Protect youth against all exploitation and against physical, moral and intellectual abandonment;
- (f) Diminish infant mortality and morbidity;
- (g) Prevent the spread of infectious diseases;
- (h) Take care of mental hygiene and encourage the struggle against social diseases;
- (i) Give public assistance in emergencies;
- (j) Encourage private initiative in regard to the matters mentioned above.

80. The State and municipalities shall devote one per cent. of their respective revenues to the protection of maternity and infancy.

81. The State and municipalities shall promote the development of culture and give assistance to the intellectual worker, and shall encourage private initiative to this end.

*Sole Paragraph.* Assistance to the intellectual worker shall take the form of the grant of paid holidays, medical care, and the formation of model and collective contracts, within the limits indicated in the Federal Constitution.

82 - 83. *Education.*

84. The State shall organise its own system of education of all grades respecting the directions laid down by the Union. . .

Every industrial or agricultural undertaking outside a centre with schools which has fifty workers among whom and whose children there are not less than ten illiterates shall be required to give them primary instruction free.

### **Sergipe**

Constitution of 16 July 1935<sup>1</sup>

106 -108. *The Economic and Social Order.*

109 -116. *The Family and Education.*

135. *Individual Rights and Guarantees.*

### **Federal District**

Organic Law of 18 January 1936<sup>2</sup>

38 - 43. *Public Services.*

### **Federal Territory of Acre**

Organic Law

. . . . .

<sup>1</sup> Brazilian text in *Jornal do Commercio*, pp. 183-195, or PINTO DANTAS: *op. cit.*, pp. 491-528.

<sup>2</sup> Brazilian text in *Jornal do Commercio*, pp. 241-250.

**BRITISH COLONIES****Bahama Islands**

Letters Patent Instituting the Office of Governor and  
Commander-in-Chief on the Bahama Islands<sup>1</sup>

*8 September 1909*

XII. *Substantially identical with Cyprus Letters Patent, paragraph 16, p. 43.*

Royal Instructions to the Governor and Commander-in-Chief  
of the Bahama Islands

*8 September 1909*

XXI. The Governor shall not (except in the cases hereunder mentioned) assent in Our name to any Bill of any of the following classes:

1. Any Bill for the divorce of persons joined together in holy matrimony;
2. Any Bill whereby any grant of land or money, or other donation or gratuity, may be made to himself;
3. Any Bill whereby any increase or diminution may be made in the number, salary or allowances of the public officers;
4. Any Bill affecting the currency of the Islands, or relating to the issue of bank notes;
5. Any Bill establishing any Banking Association, or amending or altering the constitution, powers or privileges of any Banking Association;
6. Any Bill imposing differential duties;
7. Any Bill the provisions of which shall appear inconsistent with obligations imposed upon Us by Treaty;
8. Any Bill interfering with the discipline or control of Our Forces by land or sea;
9. Any Bill of an extraordinary nature and importance whereby Our prerogative, or the rights and property of Our subjects not residing in the Islands, or the trade and shipping of the United Kingdom and its Dependencies, may be prejudiced;
10. Any Bill whereby persons not of European birth or descent may be subjected or made liable to any disabilities or restrictions to which persons of European birth or descent are not also subjected or made liable;
11. Any Bill containing provisions to which Our assent has been once refused, or which have been disallowed by Us.

Unless such Bill shall contain a clause suspending the operation of such Bill until the signification in the Islands of our pleasure thereupon, or unless the

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<sup>1</sup>Text in *Statutory Rules and Orders, 1909, p. 781.*

Governor shall have satisfied himself that an urgent necessity exists requiring that such Bill be brought into immediate operation, in which case he is authorised to assent in Our name to such Bill, unless the same shall be repugnant to the law of England or inconsistent with any obligations imposed on Us by Treaty. But he is to transmit to Us, by the earliest opportunity, the Bill so assented to, together with his reasons for assenting thereto.

XXII. No private Bill is to be passed whereby the property of any private person may be affected unless the same shall contain a saving of the rights of Us, Our heirs and successors, and of all bodies, politic and corporate, and of all other persons, except such as are mentioned in the said Bill, and those claiming by, from and under them. The Governor is not to give his assent to any such Bill until proof be made before him in the Executive Council and entered in the minutes of the Council, that adequate and timely notification, by public advertisement or otherwise, was made of the party's intention to apply for such Bill before any such Bill was brought into the Legislative Council or Assembly; and a certificate under his hand shall be transmitted with and annexed to any such private Bill, signifying that the notification has been given, and declaring the manner of giving the same.

XXV. No public money whatever, whether it be appropriated to any particular service or not by the law granting the same, shall be issued or disposed of otherwise than by Warrant under the hand of the Governor, by and with the consent of the Executive Council.

XXVII. Before disposing of any vacant or waste lands to Us belonging in the Islands, the Governor shall cause the same to be surveyed, and such reservations to be made thereout as he may think necessary for roads or other public purposes. The Governor shall not directly or indirectly purchase for himself any of such lands without Our special permission given through one of Our Principal Secretaries of State.

XXX. The Governor shall punctually forward to Us, from year to year, through one of Our Principal Secretaries of State, the annual Book of Returns commonly called the "Blue Book", relative to the Revenue and Expenditure, Defence, Public Works, Legislation, Civil Establishment, Pensions, Population, Schools, Course of Exchange, Imports and Exports, Agricultural Produce, Manufactures and other matters in the said "Blue Book", more particularly specified, with reference to the State and condition of the Islands.

## Bermuda

### Letters Patent Constituting the Office of Governor and Commander-in-Chief<sup>1</sup>

*19 January 1888*

XIII. *Substantially identical with Cyprus Letters Patent, paragraph 16, p. 43.*

### Royal Instructions to the Governor and Commander-in-Chief

*25 November 1915, as Amended 9 June 1930*

24. The Governor shall not, except in the cases hereunder mentioned, assent in Our name to any Bill of any of the following classes:

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<sup>1</sup> Text in *Statutory Rules and Orders*, revised to 31 Dec. 1903, Vol. I, p. 1.

(1)-(10) *Substantially identical with clauses (1), (2) and (4)-(11) of paragraph 21 of the Bahamas Royal Instructions, p. 289.*

Unless the Governor shall previously have obtained our instructions upon such Bill through one of our Principal Secretaries of State, or unless such Bill shall contain a clause suspending the operation of such Bill until the signification of our pleasure thereupon, or unless the Governor shall have satisfied himself that an urgent necessity exists requiring that such Bill be brought into immediate operation, in which case he is authorised to assent in Our name to such Bill, unless the same shall be repugnant to the law of England, or inconsistent with any obligations imposed on Us by treaty. But he is to transmit to Us, by the earliest opportunity, the Bill so assented to, together with his reasons for assenting thereto.

25. Every Bill intended to affect or benefit some particular person, association or corporate body shall be deemed to be a private Bill and shall contain a clause saving the rights of Us, Our heirs and successors, all bodies politic and corporate, and all others except such as are mentioned in the Bill, and those claiming by, from or under them. The Governor shall not assent in Our name to any such private Bill until he is satisfied that adequate and timely notification, by public advertisement or otherwise, was made of the parties intention to apply for such Bill before the same was brought into the Legislative Council or Assembly, and a certificate under his hand shall be transmitted with the Bill, signifying that such notice has been given.

30. *Substantially identical with Bahamas Royal Instructions, paragraph 27, p. 290.*

35. *Substantially identical with Bahamas Royal Instructions, paragraph 30, p. 290.*

### British Guiana

Act of the Imperial Parliament to make Provision for the Government<sup>1</sup>

28 March 1928

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Order in Council Providing for the Government and for the  
Constitution of a Legislative Council<sup>2</sup>

13 July 1928

.....

Letters Patent Constituting the Office of Governor and Commander-  
in-Chief of the Colony of British Guiana<sup>3</sup>

20 July 1928

VI. *Substantially identical with Cyprus Letters Patent, paragraph 16, p. 43.*

<sup>1</sup> Text in *British and Foreign State Papers*, Vol. 128, p. 46.

<sup>2</sup> Text in *ibid.*, p. 58.

<sup>3</sup> Text in *Statutory Rules and Orders*, 1928, p. 1385.

## Royal Instructions to the Governor and Commander-in-Chief

20 July 1928

13. *Substantially identical with Bermuda Royal Instructions, paragraph 24, p. 290.*

14. Every Bill intended to affect or benefit some particular person, association, or corporate body, shall contain a section saving the rights of Us, Our heirs, successors, all bodies politic and corporate, and all others, except such as are mentioned in the Bill and those claiming by, from or under them. No such Bill not being a Government measure shall be introduced into the Legislative Council until due notice has been given by not less than three successive publications of the Bill in the Official Gazette of British Guiana; and the Governor shall not assent thereto in Our name unless it has been so published. A certificate under the hand of the Governor signifying that such publication has been made shall be transmitted to Us with the Bill.

18. Before disposing of any vacant or waste lands to Us belonging in the Colony, the Governor shall cause the same to be surveyed, and such reservations made thereon as he may think necessary or desirable to be reserved and set apart for public roads or other internal communication by land or water, or for purposes of military defence, or for any other purposes of public safety, convenience, utility, health or enjoyment. The Governor shall not, directly or indirectly, purchase for himself any of such lands without Our special permission given through one of Our principal Secretaries of State.

22. *Substantially identical with Bahamas Royal Instructions, paragraph 30, p. 290.*

## British Honduras

### Letters Patent Constituting the Office of Governor and Commander-in-Chief of the Colony of British Honduras<sup>1</sup>

20 July 1909

VIII. *Substantially identical with Cyprus Letters Patent, paragraph 16, p. 43.*

## Royal Instructions to the Governor and Commander-in-Chief

20 July 1909, Amended 1936

15. *Substantially identical with the introductory and concluding provisions of paragraph 24 of the Bermuda Royal Instructions, p. 290 and with clauses (1)-(11) of paragraph 21 of the Bahamas Royal Instructions, p. 289 save that the concluding paragraph includes no reference to repugnancy to the law of England.*

16. *Substantially identical with Bahamas Royal Instructions, paragraph 22, p. 290.*

20. *Substantially identical with Bahamas Royal Instructions, paragraph 27, p. 290.*

24. *Substantially identical with Bahamas Royal Instructions, paragraph 30, p. 290.*

<sup>1</sup>Text in *Statutory Rules and Orders*, 1909, p. 785.



Ordinance of the Local Legislature to Provide for the  
Constitution and Legislative Council<sup>1</sup>

17 July 1935

.....

**British West Indies**

**Barbados**

Letters Patent Constituting the Office of Governor and Commander-in-Chief of the Island of Barbados and its Dependencies, and Providing for the Government thereof<sup>2</sup>

4 June 1914, Amended 1937

XV. All public moneys raised, or which shall be raised, by authority of any law within the Island, shall be issued by Warrant under the hand of the Governor, and disposed of for the support of the Government of the Island, or for such other purposes as shall be particularly appointed by law, and not otherwise.

XVI. *Substantially identical with Cyprus Letters Patent, paragraph 16, p. 43.*

Royal Instructions to the Governor and Commander-in-Chief

4 June 1914, Amended 1937

28. *Substantially identical with Bermuda Royal Instructions, paragraph 24, p. 290.*

29. *Substantially identical with the first sentence of the British Guiana Royal instructions, paragraph 14, p. 292 and with the second sentence of the Leeward Islands Royal Instructions, paragraph 28, p. 296.*

33. The Governor is to take care that no public money whatever, whether it be appropriated to any particular service or not by the law granting the same, be issued or disposed of otherwise than by Warrant under his hand.

34. *Substantially identical with Bahamas Royal Instructions, paragraph 27, p. 290.*

37. The Governor is to the utmost of his power to promote religion and education in the island.

39. *Substantially identical with Bahamas Royal Instructions, paragraph 30, p. 290.*

**Jamaica**

Order in Council Altering the Constitution of the Legislative Council

19 May 1884, as Amended to 21 February 1935

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<sup>1</sup>Text in *Ordinances of British Honduras*, 1935, pp. 57 and 129.

<sup>2</sup>Text in *Statutory Rules and Orders*, Vol. III, 1914, p. 359 and 1937, p. 2379.

<sup>3</sup>Text and amendments in *idem*, revised to 31 Dec. 1903, Vol. VI, p. 6 and *idem*, 1929, p. 1475 and 1935, p. 1793.

Letters Patent Constituting the Office of Captain-General  
and Governor-in-Chief<sup>1</sup>

21 July 1887, as Amended 5 March 1913

7. *Substantially identical with Cyprus Letters Patent, paragraph 16, p. 43.*

Royal Instructions to the Captain-General and Commander-in-Chief

29 July 1887

19. *Substantially identical with Bahamas Royal Instructions, paragraph 21, p. 289.*

20. *Substantially identical with Bahamas Royal Instructions, paragraph 22, p. 290.*

25. *Substantially identical with Bahamas Royal Instructions, paragraph 27, p. 290.*

29. *Substantially identical with Bahamas Royal Instructions, paragraph 30, p. 290.*

Dispatch from the Secretary of State for the Colonies to the  
Governor of Jamaica concerning the Proposed  
Amended Constitution for Jamaica<sup>2</sup>

10 February 1943

.....  
5. The signatories of the memorandum have suggested that the Executive Committee should develop into a Council of Ministers, and recommend that a system be instituted wherein members of the House of Assembly should be appointed as Ministers in charge of the departments of administration (such system to begin on a limited basis and to provide for progressive expansion), that such Ministers should be members of the Executive Committee, and that the particular method of establishing such a system should be reserved for further discussion. The House of Assembly will be entitled to select five members of the Executive Committee, and a simple method of doing so would be to form five small committees of the Assembly to concentrate respectively on (a) general purposes; (b) agriculture and lands; (c) education; (d) social welfare and (e) communications. The five chairmen of these committees might be appointed to the Executive Committee and that system, if successful, would in fact provide an embryo ministerial system whose limited application would await the next stage when the first review would take place. I commend this suggestion for consideration. I would add that no provision in the Constitution is needed to prescribe this procedure nor indeed would it be desirable to introduce such rigidity into the arrangement.  
.....

<sup>1</sup> Text and amendment in *Statutory Rules and Orders*, revised to 31 Dec. 1903, Vol. VI, p. 21, and *idem*, 1913, p. 2370.

<sup>2</sup> Text in *British and Parliamentary Papers*, Cmd. 6427 of 1943.

### Leeward Islands

#### The Leeward Islands Act, 1871<sup>1</sup>

2. So soon as this Act shall come into operation in the Leeward Islands, those islands shall form one colony, consisting of six presidencies, namely the several islands of Antigua, Montserrat, Saint Christopher, Nevis, and Dominica, with their respective dependencies, and the Virgin Islands.

10. Subject to the provisions of the twenty-fifth and twenty-sixth sections of this Act, the Governor with the consent of the General Legislative Council, hereinafter referred to as "the Council", may make laws, for the Leeward Islands or any part thereof, on the following subjects:

- (1) The law of real and personal property, including wills, testaments, probate, and administration of estates of deceased persons;
- (2) The mercantile law;
- (3) The law relating to husband and wife, parent and child, marriage, divorce, and guardianship of infants;
- (4) The criminal law;
- (5) The constitution of courts of law, the criminal and civil administration of justice, including the jurisdiction, practice, and procedure of all courts of law, criminal and civil;
- (6) The establishment and regulation of a common convict station and a common prison discipline;
- (7) The establishment and regulation of a general police force, and of the other protective forces of the Leeward Islands;
- (8) The post office and the electric telegraph;
- (9) Quarantine;
- (10) Currency;
- (11) Weights and measures;
- (12) Audit of the public accounts in the several presidencies;
- (13) Education;
- (14) Immigration and treatment of immigrants;
- (15) Idiots, lunatics, and idiot and lunatic asylums;
- (16) Copyrights and patents;
- (17) The constitution and procedure of the Council;
- (18) Such other subjects in respect of each presidency as the Island Legislature thereof may declare to be within the competency of the General Legislature.

11. Subject to the provisions of the twenty-fifth and twenty-sixth sections of this Act<sup>2</sup>, the Governor may, with the consent of the Legislative Body of any presidency, make laws for the peace, order, and good government thereof, but any island enactment relating to any of the subjects named in the preceding section may at any time be repealed or altered by the General Legislature, and shall, without any formal repeal, be void so far as it is repugnant to any law passed by the General Legislature.

28. The expenses of such establishments as are common to all the Leeward Islands, other than the remuneration and travelling expenses of the members of the Council, shall be fixed by the Council and shall, until otherwise apportioned by the Council, be divided into sixteen parts, which shall be charged as follows:

.....

<sup>1</sup> 34 and 35 Vict. Ch. 107, *Law Reports — Public General Statutes*, Vol. 6, 1871, pp. 548-553.

<sup>2</sup> These relate to the disallowance and reservation of bills.

Such charges, however, as may be incurred in respect of immigration shall be shared only by such islands as may elect to participate therein.

29. An estimate of such expenses shall be every year prepared by the General Government and laid before the Council, and when passed by the Council shall be published in the Leeward Islands; and after such publication the Governor may, from time to time, as the occasion shall require, draw on the public treasury of each presidency for the whole or any part of the amount due from such presidency.

### Letters Patent Constituting the Office of Governor and Commander-in-Chief of the Leeward Islands<sup>1</sup>

*17 November 1936*

11. All public moneys raised, or which shall be raised, by authority of any law within any of the Presidencies, shall be issued by Warrant under the hand of the Governor, and be disposed of for the support of the Government of such Presidency, or for such other purposes as shall be particularly appointed by such law and not otherwise.

12. *Substantially identical with Cyprus Letters Patent, paragraph 16, p. 43.*

### Royal Instructions to the Governor and Commander-in-Chief

*17 November 1936*

27. The Governor shall not, unless he shall previously have obtained instructions thereupon through one of Our Principal Secretaries of State, or unless the Bill shall contain a clause suspending its operation until the signification of Our pleasure thereupon, assent in Our name to any Bill of any of the following classes:

(1)-(11) *Substantially identical with clauses (1)-(11) of paragraph 21 of Bahamas Royal Instructions, p. 289.*

Provided that if the Governor shall have satisfied himself that an urgent necessity exists requiring that such Bill will be brought into immediate operation, he is authorised to assent in Our name to such Bill unless the same shall be inconsistent with any obligations imposed on Us by treaty, but he is to transmit to Us by the earliest opportunity, the Bill so assented to, together with his reasons for assenting thereto.

28. The Governor shall take care that no private law be passed whereby the property of any private person may be affected, unless the same shall contain a saving of the rights of Us, Our heirs and successors, and of all bodies, political and corporate, and of all others, except such as are mentioned in the said law, and those claiming by, from or under them. The Governor shall not assent in Our name to any private Bill until proof be made before him that adequate and timely notification, by public advertisement or otherwise was made of the parties' intention to apply for such Bill before any such Bill was brought before the Council and a certificate under his hand shall be transmitted with and annexed to every such private law, signifying that the notification has been given and declaring the manner of the same.

34. *Substantially identical with Bahamas Royal Instructions, paragraph 27, p. 290.*

36. *Substantially identical with Bahamas Royal Instructions, paragraph 30, p. 290.*

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<sup>1</sup>Text in *Statutory Rules and Orders*, Vol. II, 1936, p. 3674.

**Trinidad and Tobago****Order in Council Constituting a Legislative Council<sup>1</sup>**

*16 April 1924*

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**Letters Patent Constituting the Office of Governor  
and Commander-in-Chief<sup>2</sup>**

*6 June 1924*

12. *Substantially identical with Cyprus Letters Patent, paragraph 16, p. 43.*

**Royal Instructions to the Governor and Commander-in-Chief<sup>3</sup>**

*6 June 1924*

12. *Substantially identical with Bermuda Royal Instructions, paragraph 24, p. 290.*

13. *Substantially identical with British Guiana Royal Instructions, paragraph 14, p. 292.*

16. *Substantially identical with Bahamas Royal Instructions, paragraph 27, p. 290.*

20. *Substantially identical with Bahamas Royal Instructions, paragraph 30, p. 290.*

**Windward Islands****Letters Patent Constituting the Office of Governor  
and Commander-in-Chief<sup>4</sup>**

*13 November 1936*

9. *Substantially identical with clause 11 of the Leeward Islands Letters Patent, p. 295.*

10. *Substantially identical with Cyprus Letters Patent, paragraph 16, p. 43.*

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<sup>1</sup> Text in *Constitutions of All Countries*, Vol. I, pp. 590-605.

<sup>2</sup> *Ibid.*, pp. 605-610.

<sup>3</sup> *Ibid.*, pp. 610-617.

<sup>4</sup> Text in *Statutory Rules and Orders*, Vol. II, 1936, p. 3687.

Royal Instructions to the Governor and Commander-in-Chief

*9 April 1924, amended 13 November 1936*

22. Substantially identical with *Bermuda Royal Instructions*, paragraph 24, p. 290.

23. Substantially identical with *British Guiana Royal Instructions*, paragraph 14, p. 292.

28. Substantially identical with *Bahamas Royal Instructions*, paragraph 25, p. 290, but does not include the words "by and with the consent of the Executive Council".

29. Substantially identical with *Bahamas Royal Instructions*, paragraph 27, p. 290.

32. Substantially identical with *Barbados Royal Instructions*, paragraph 37, p. 293.

34. Substantially identical with *Bahamas Royal Instructions*, paragraph 30, p. 291.

**Falkland Islands**

Letters Patent Constituting the Office of Governor  
and Commander-in-Chief<sup>1</sup>

*25 February 1892*

10. Substantially identical with *Cyprus Letters Patent*, paragraph 16, p. 43.

Royal Instructions to the Governor and Commander-in-Chief

*28 February 1920*

28. Substantially identical with *Bermuda Royal Instructions*, paragraph 24, p. 291.

33. Substantially identical with *Bahamas Royal Instructions*, paragraph 27, p. 290.

37. Substantially identical with *Bahamas Royal Instructions*, paragraph 30, p. 290.

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<sup>1</sup>Text in *British and Foreign State Papers*, Vol. 84, 1891-1892, pp. 262-266.

## CANADA

British North America Act, 1867, as Amended to 1940<sup>1</sup>

### VI. DISTRIBUTION OF LEGISLATIVE POWERS

#### *Powers of the Parliament*

91. *Legislative Authority of Parliament of Canada.* It shall be lawful for the Queen, by and with the advice and consent of the Senate and House of Commons, to make Laws for the Peace, Order, and good Government of *Canada*, in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces; and for greater Certainty, but not so as to restrict the Generality of the foregoing Terms of this Section, it is hereby declared that (notwithstanding anything in this Act) the exclusive Legislative Authority of the Parliament of *Canada* extends to all Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say:

1. The Public Debt and Property.
2. The Regulation of Trade and Commerce.
- 2a. Unemployment Insurance.
3. The raising of Money by any Mode or System of Taxation.
4. The borrowing of Money on the Public Credit.
5. Postal Service.
6. The Census and Statistics.
7. Militia, Military and Naval Service, and Defence.
8. The fixing of and providing for the Salaries and Allowances of Civil and other Officers of the Government of *Canada*.
9. Beacons, Buoys, Lighthouses, and *Sable Island*.
10. Navigation and Shipping.
11. Quarantine and the Establishment and Maintenance of Marine Hospitals.
12. Sea Coast and Inland Fisheries.
13. Ferries between a Province and any *British* or Foreign Country or between Two Provinces.
14. Currency and Coinage.
15. Banking, Incorporation of Banks, and the Issue of Paper Money.
16. Savings Banks.
17. Weights and Measures.
18. Bills of Exchange and Promissory Notes.
19. Interest.

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<sup>1</sup> Text from *Constitutions of All Countries*, Vol. I, pp. 19-56. The numerous judicial decisions concerning the interpretation of the Canadian Constitution are conveniently available in E. R. CAMERON: *The Canadian Constitution as Interpreted by the Judicial Committee of the Privy Council in its Judgments*, Vol. I, 1915 and Vol. II, 1916-1929, and C. P. PLAXTON: *Canadian Constitutional Decisions of the Judicial Committee of the Privy Council, 1930-1939*. Important proposals for the enlargement of Dominion jurisdiction in respect of social and economic questions were made by a Royal Commission which reported in 1940; see *Report of the Royal Commission on Dominion-Provincial Relations*, Book I, Canada: 1867-1939; Book II, Recommendations; Book III, Documentation; the recommendations of the Commission are summarised in *International Labour Review*, Vol. XLII, No. 6, Dec. 1940, pp. 347-376.

20. Legal Tender.
21. Bankruptcy and Insolvency.
22. Patents of Invention and Discovery.
23. Copyrights.
24. *Indians*, and Lands reserved for the *Indians*.
25. Naturalisation and Aliens.
26. Marriage and Divorce.
27. The Criminal Law, except the Constitution of Courts of Criminal Jurisdiction, but including the Procedure in Criminal Matters.
28. The Establishment, Maintenance, and Management of Penitentiaries.
29. Such Classes of Subjects as are expressly excepted in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces.

And any Matter coming within any of the Classes of Subjects enumerated in this Section shall not be deemed to come within the Class of Matters of a local or private Nature comprised in the Enumeration of the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces.

#### *Exclusive Powers of Provincial Legislatures*

92. *Subjects of exclusive Provincial Legislation.* In each Province the Legislature may exclusively make Laws in relation to Matters coming within the Classes of Subjects next hereinafter enumerated; that is to say:

1. The Amendment from Time to Time, notwithstanding anything in this Act, of the Constitution of the Province, except as regards the Office of Lieutenant Governor.
2. Direct Taxation within the Province in order to the raising of a Revenue for Provincial Purposes.
3. The borrowing of Money on the sole Credit of the Province.
4. The Establishment and Tenure of Provincial Office and the Appointment and Payment of Provincial Officers.
5. The Management and Sale of the Public Lands belonging to the Province and of the Timber and Wood thereon.
6. The Establishment, Maintenance, and Management of Public and Reformatory Prisons in and for the Province.
7. The Establishment, Maintenance, and Management of Hospitals, Asylums, Charities, and Eleemosynary Institutions in and for the Province, other than Marine Hospitals.
8. Municipal Institutions in the Province.
9. Shop, Saloon, Tavern, Auctioneer, and other Licences in order to the raising of a Revenue for Provincial, Local, or Municipal Purposes.
10. Local Works and Undertakings other than such as are of the following Classes:
  - (a) Lines of Steam or other Ships, Railways, Canals, Telegraphs, and other Works and Undertakings connecting the Province with any other or others of the Provinces, or extending beyond the Limits of the Province.
  - (b) Lines of Steam Ships between the Province and any *British* or Foreign Country.
  - (c) Such Works as, although wholly situate within the Province, are before or after their Execution declared by the Parliament of *Canada* to be for the general Advantage of *Canada* or for the Advantage of Two or more of the Provinces.



11. The Incorporation of Companies with Provincial Objects.
12. The Solemnisation of Marriage in the Province.
13. Property and Civil Rights in the Province.
14. The Administration of Justice in the Province, including the Constitution, Maintenance, and Organisation of Provincial Courts, both of Civil and of Criminal Jurisdiction, and including Procedure in Civil Matters in those Courts.
15. The Imposition of Punishment by Fine, Penalty, or Imprisonment for enforcing any Law of the Province made in relation to any Matter coming within any of the Classes of Subjects enumerated in this Section.
16. Generally all Matters of a merely local or private Nature in the Province.

### *Education*

93. *Legislation respecting Education.* In and for each Province the Legislature may exclusively make Laws in relation to Education, subject and according to the following Provisions:

- (1) Nothing in any such Law shall prejudicially affect any Right or Privilege with respect to Denominational Schools which any Class of Persons have by Law in the Province at the Union;
- (2) All the Powers, Privileges, and Duties at the Union by Law conferred and imposed in *Upper Canada* on the Separate Schools and School Trustees of the Queen's Roman Catholic Subjects shall be and the same are hereby extended to the Dissentient Schools of the Queen's Protestant and Roman Catholic Subjects in Quebec;
- (3) Where in any Province a System of Separate or Dissentient Schools exists by Law at the Union or is thereafter established by the Legislature of the Province, an Appeal shall lie to the Governor General in Council from any Act or Decision of any Provincial Authority affecting any Right or Privilege of the Protestant or Roman Catholic Minority of the Queen's Subjects in relation to Education.
- (4) In case any such Provincial Law as from Time to Time seems to the Governor General in Council requisite for the due Execution of the Provisions of this Section is not made, or in case any Decision of the Governor General in Council on any Appeal under this Section is not duly executed by the proper Provincial Authority in that Behalf, then and in every such Case, and as far only as the Circumstances of each Case require, the Parliament of *Canada* may make remedial Laws for the due Execution of the Provisions of this Section and of any Decision of the Governor General in Council under this Section.

### *Uniformity of Laws in Ontario, Nova Scotia, and New Brunswick*

94. *Legislation for Uniformity of Laws in Three Provinces.* Notwithstanding anything in this Act, the Parliament of *Canada* may make Provision for the Uniformity of all or any of the Laws relative to Property and Civil Rights in *Ontario*, *Nova Scotia*, and *New Brunswick*, and of the Procedure of all or any of the Courts in those Three Provinces, and from and after the passing of any Act in that Behalf the Power of the Parliament of *Canada* to make Laws in relation to any Matter comprised in any such Act shall, notwithstanding anything in this Act, be unrestricted; but any Act of the Parliament of *Canada* making Provision for such Uniformity shall not have effect in any Province unless and until it is adopted and enacted as Law by the Legislature thereof.

*Agriculture and Immigration*

95. *Concurrent Powers of Legislation respecting Agriculture, etc.* In each Province the Legislature may make Laws in relation to Agriculture in the Province, and to Immigration into the Province; and it is hereby declared that the Parliament of *Canada* may from Time to Time make Laws in relation to Agriculture in all or any of the Provinces, and to Immigration into all or any of the Provinces; and any Law of the Legislature of a Province relative to Agriculture or to Immigration shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of the Parliament of *Canada*.

VIII. REVENUES; DEBTS; ASSETS; TAXATION

117. *Provincial Public Property.* The several Provinces shall retain all their respective Public Property not otherwise disposed of in this Act, subject to the Rights of *Canada* to assume any Lands or Public Property required for Fortifications or for the Defence of the Country.

121. *Canadian Manufactures, etc.* All Articles of the Growth, Produce or Manufacture of any one of the Provinces shall, from and after the Union, be admitted free into each of the other Provinces.

125. *Exemption of Public Lands, etc. Provincial Consolidated Revenue Fund.* No Lands or Property belonging to *Canada* or any Province shall be liable to Taxation.

IX. MISCELLANEOUS PROVISIONS

*General*

132. *Treaty Obligations.* The Parliament and Government of *Canada* shall have all Powers necessary or proper for performing the Obligations of *Canada* or of any Province thereof, as Part of the *British Empire*, towards Foreign Countries, arising under Treaties between the Empire and such Foreign Countries.

Letters Patent Constituting the Office of Governor-General  
and Commander-in-Chief<sup>1</sup>

*23 March 1931, as Amended 25 September 1935*

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Royal Instructions to the Governor-General  
and Commander-in-Chief<sup>2</sup>

*23 March 1931*

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<sup>1</sup>Text in *Constitutions of All Countries*, Vol. I, pp. 51-54 or in *British and Foreign State Papers*, Vol. 134, p. 68, with amendment in *Statutory Rules and Orders*, 1935, p. 1785.

<sup>2</sup>Text in *Constitutions of All Countries*, Vol. I, pp. 54-56.

PROVINCES OF CANADA<sup>1</sup>**Alberta**The Alberta Act<sup>2</sup>

1905

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The Legislative Assembly Act<sup>3</sup>

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**British Columbia**Constitution Act<sup>4</sup>

.....

**Manitoba**The Manitoba Act<sup>5</sup>

1870

22. In and for the Province, the said Legislature may exclusively make laws in relation to education, subject and according to the following provision:

- (1) Nothing in any such law shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have by law or practice in the Province at the Union;
- (2) An appeal shall be to the Governor-General in Council from any Act or decision of the Legislature of the Province, or of any Provincial Authority, affecting any right or privilege of the Protestant or Roman Catholic minority of the Queen's subjects in relation to education;
- (3) In case any such Provincial Law, as from time to time seems to the Governor-General in Council requisite for the due execution of the provisions of this section, is not made, or in case any decision of the Governor-General in Council on any appeal under this section is not duly executed by the proper Provincial Authority in that behalf, then, and in every such case, and as far only as the circumstances of each case require, the Parliament of Canada may make remedial laws for the due execution of the provisions of this section, and of any decision of the Governor-General in Council under this section.

<sup>1</sup> The references given for the Provinces of Canada are to the revised editions of their Statutes; for subsequent amendments reference must be made to the current volumes of the Statutes.

<sup>2</sup> Text in *Revised Statutes of Alberta*, Vol. IV, 1922, pp. 2831-2848.

<sup>3</sup> *Idem*, Vol. I, pp. 13-39.

<sup>4</sup> Text in *Revised Statutes of British Columbia*, Vol. I, 1936, Chap. 49, pp. 641-682.

<sup>5</sup> Text in *Revised Statutes of Manitoba*, Vol. III, 1940, pp. 3705-3715.

The Legislative Assembly Act<sup>1</sup>

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The Executive Council Act<sup>2</sup>

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**New Brunswick**

Act respecting the Legislative Assembly<sup>3</sup>

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Act respecting the Executive Council<sup>4</sup>

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**Nova Scotia**

Act respecting the Constitution, Powers and Privilege of the Houses<sup>5</sup>

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The Executive Council Act<sup>6</sup>

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**Ontario**

The Legislative Assembly Act<sup>7</sup>

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The Executive Council Act<sup>8</sup>

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**Prince Edward Island**

An Act respecting the Legislative Assembly<sup>9</sup>

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<sup>1</sup> Text in *Revised Statutes of Manitoba*, Vol. II, pp. 1821-1836.

<sup>2</sup> *Idem*, Vol. I, 1940, pp. 974-976.

<sup>3</sup> Text in *Revised Statutes of New Brunswick*, Vol. I, 1927, pp. 237-241.

<sup>4</sup> *Ibid.*, pp. 242-244.

<sup>5</sup> Text in *Revised Statutes of Nova Scotia*, Vol. I, 1923, pp. 14-22.

<sup>6</sup> *Ibid.*, pp. 110-111.

<sup>7</sup> Text in *Revised Statutes of Ontario*, Vol. I, 1937, pp. 295-315.

<sup>8</sup> *Ibid.*, pp. 317-318.

<sup>9</sup> Text in *Acts of the General Assembly of Prince Edward Island*, 1940, pp. 487-498.

**Quebec**

The Legislature Act<sup>1</sup>

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The Executive Power Act<sup>2</sup>

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**Saskatchewan**

The Saskatchewan Act<sup>3</sup>

1905

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The Legislative Assembly Act<sup>4</sup>

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The Executive Council Act<sup>5</sup>

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**TERRITORIES OF CANADA****Northwest Territories**

Northwest Territories Act<sup>6</sup>

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**Yukon**

The Yukon Act<sup>7</sup>

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<sup>1</sup> Text in *Revised Statutes of the Province of Quebec*, Vol. I, 1941, pp. 248-272.

<sup>2</sup> *Ibid.*, pp. 451-455.

<sup>3</sup> Text in *Revised Statutes of Saskatchewan*, Vol. IV, 1940, pp. 4579-4594.

<sup>4</sup> *Idem*, Vol. I, pp. 15-52.

<sup>5</sup> *Ibid.*, p. 151.

<sup>6</sup> Text in *Revised Statutes of Canada*, Vol. III, 1927, pp. 2871-2896.

<sup>7</sup> *Idem*, Vol. IV, pp. 4181-4208.

## CHILE

### Constitution of the Republic of Chile<sup>1</sup>

18 September 1925

#### CHAPTER III. CONSTITUTIONAL GUARANTEES

##### 10. The Constitution guarantees to all inhabitants of the Republic:

(1) Equality before the law. In Chile there is no privileged class;

In Chile there are no slaves, and whoever sets foot on its soil becomes free. Chileans may not engage in the slave trade and any foreigner engaged in that trade may not live in Chile or become a citizen thereof.

(2) The practice of all creeds, liberty of conscience, and free exercise of all forms of worship not opposed to morality, good custom, or public order. . . .

(3) The right to express opinions, orally or in writing, in the press or in any other manner, without previous censorship. However, anyone committing a crime or abuse in the exercise of this right, shall be liable as provided by law;

(4) The right to assemble without previous permission, and without arms. Meetings in parks, streets, and other public places shall be conducted in accordance with general police regulations;

(5) The right to form associations in conformity with law, without previous permission;

(6) The right to present petitions to the properly constituted authorities on any subject of public or private interest, subject only to the requirement that they be expressed in appropriate and respectful language;

(7) Freedom of education.

Public education is primarily the concern of the State.

Primary education is obligatory.

There shall be a Superintendent of public education, whose duty it will be to inspect and direct national education, under the supervision of the Government;

(8) Admission to all public positions and offices, without other conditions than those imposed by law;

(9) The equal apportionment of imposts and taxes, in proportion to the value of the property, and in accordance with the schedules or other form fixed by law; and the equal apportionment of other public burdens.

Direct or indirect taxes shall be imposed only by law, and no authority of the State or any individual shall impose such taxes without special authorisation of the law, under any pretext whatsoever, whether as a loan, a gift, or otherwise.

No personal service or tax of any kind shall be exacted, except by virtue of a decree issued by a competent authority, based on the law authorising such exaction.

.....

(10) The inviolability of all property, without distinction.

No one shall be deprived of his property, or of any part thereof, or of

<sup>1</sup> English translation by courtesy of the American Law Institute; for Spanish text, see *Constitución política de la República de Chile*, official edition, Santiago de Chile, Imprenta Universitaria, Estado 63, 1925, or Andrés María LAZCANO Y MAZON: *Constituciones políticas de América*, Vol. I, pp. 517-548.

any right therein, except by virtue of a judicial decision, or condemnation for public use, when authorised by law. In the latter case, previous indemnification shall be made, to be determined either by agreement with the owner or by the appropriate court.

The exercise of the right to hold property is subject to such limitations or regulations as are required for the maintenance and progress of the social order, and the law may therefore impose obligations in connection with it of benefit to the public, in the general interests of the State and public health;

(11) Exclusive ownership of any discovery or creation, for the period of time allowed by law. If the law requires its expropriation, proper indemnification shall be made to the author or inventor;

(14) The protection of labour, industry, and social welfare, especially as they relate to sanitary dwellings and economic living conditions, in such a way as to provide such inhabitant with a minimum of comfort adequate for the satisfaction of his personal needs and those of his family. This provision shall be regulated by law.

The State shall favour the suitable partition of estates and the creation of family holdings.

No class of work or industry shall be prohibited unless opposed to good usage, public safety, or public health, or unless required by the national interest and so declared by law.

It is the duty of the State to protect public health and the hygienic well-being of the country. There shall be appropriated each year a sum of money sufficient to maintain a national health service; and

(15) The right to sojourn in any part of the Republic, to travel throughout the territory, or depart therefrom, provided, however, that police regulations are complied with and the rights of third parties are protected; and no person shall be arrested, detained, prosecuted or exiled, except in the manner prescribed by law.

18. . . . .

No torture shall be inflicted, nor shall confiscation of property be imposed in any case not authorised by law.

#### CHAPTER IV. THE NATIONAL CONGRESS

##### *Attributions of Congress*

44. Only by means of a law is it permissible:

(1) To impose taxes of any kind or nature, to suppress existing taxes, to provide when necessary for their division between the Provinces and communes, and to determine their proportional and progressive incidence.

(2) To authorise the contracting of loans and of any other operations which may compromise the credit and financial responsibility of the State;

(3) To authorise the alienation of the property of the State or of the municipalities, or the lease or concession thereof for more than twenty years.

(8) To fix the weight, fineness, value, type and denomination of the currency and the system of weights and measures.

(13) To restrict personal freedom or the freedom of the press or to suspend or restrict the exercise of the right of meeting when called for by the imperious necessity of the defence of the State, of the maintenance of the constitutional system or of internal peace, and then only for periods which shall not exceed a month. If these laws provide for penalties, their application shall always be entrusted to the established tribunals. Apart from the cases prescribed in this

clause, no law may be enacted to suspend or restrict the liberties or rights assured by the Constitution.

## CHAPTER IX. INTERNAL ADMINISTRATIVE ARRANGEMENTS

### *Communal Administration*

105. The municipalities shall hold their meetings with a majority of the Councillors actually in office, and shall have the administrative functions and have at their disposal the revenues determined by law.

Their functions include more particularly:

1. Care of health inspection, decency, embellishment and recreation;
2. The promotion of education, agriculture, industry and commerce;
3. Care of the primary schools and other educational services paid for with municipal funds;
4. Care of the construction and repair of roads, ports and other works of necessity, utility or embellishment paid for with municipal funds.

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## COLOMBIA

### Constitution of the Republic of Colombia<sup>1</sup>

*5 August 1886*

## TITLE III. CIVIL RIGHTS AND SOCIAL GUARANTEES

15. The authorities of the Republic are constituted for the protection of all persons residing in Colombia, their lives, honour, and property, and to ensure the fulfilment of the social duties of the State and of the individual.

16. Private persons are answerable to the authorities only for violations of the Constitution or of the laws. Public officials are answerable for the same violations, and, in addition, for exceeding their powers, or for omissions in the fulfilment of their duties.

18. There shall be no slaves in Colombia.

Any slave who sets foot on the soil of the Republic shall be free.

.....

In no case shall there be detention, imprisonment, or arrest for purely civil debts or obligations, unless to enforce the order of a court.

22. No one shall be tried except in conformity with laws enacted prior to the commission of the offence with which he is charged, before a competent court, and in accordance with the legal procedure which must be observed in each case.

.....

23. The foregoing provision shall not prevent the following persons from

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<sup>1</sup>English translation by courtesy of the American Law Institute; for Spanish text, see Andrés María LAZCANO Y MAZON: *Constituciones políticas de América*, Vol. I, pp. 327-372.



imposing punishment, without previous trial, in the cases and within the limits defined by law:

.....

(3) Masters of vessels, who have the power, when not in port, to repress crimes committed on board their ships.

25. The Legislature shall not impose capital punishment under any circumstances.

26. Private property and other rights vested under a just title and according to the civil laws, in natural or juristic persons, are guaranteed, and cannot be disregarded or violated by subsequent laws. When the enforcement of a law enacted for a public benefit or a social interest results in a conflict between the rights of private individuals and the needs recognised by that law, the private interest shall yield to the public or social interest.

Property is a social function which implies obligations.

For reasons of public benefit or social interest, defined by the Legislature, property may be expropriated, by means of a judicial decree and upon prior indemnity.

However, the Legislature, for reasons of equity, may determine, by a vote of the absolute majority of the members of both Chambers, the cases in which there is no right to indemnity.

27. No law creating a monopoly shall be enforced until those who are deprived of their right to engage in a lawful industry have been fully compensated.

No monopoly shall be created except for reasons of revenue and in accordance with law.

Privileges or franchises shall be conferred only in cases of useful inventions, or when they relate to means of communication.

28. The State may intervene by legislation in the development of industries or private and public enterprises, for the purpose of regulating production, distribution, and consumption of national resources, and of providing the worker with the protection to which he is justly entitled.

*Paragraph.* The laws enacted in the exercise of the powers granted by this article require for their approval the vote of the absolute majority of the members of both Chambers.

*Additional article.* The law will create special labour courts and determine their organisation.

29. In time of peace, only Congress, the Departmental Assemblies, and the Municipal Councils shall levy taxes.

30. In case of war, and solely for the purpose of ensuring the restoration of public order, the seizure of private property may be ordered by the authorities not vested with judicial power, indemnification not being required beforehand.

In such a case, real property may be only temporarily seized, either to meet the exigencies of the war, or to apply its products to the prosecution of the war, as a pecuniary penalty imposed on the owners thereof, in conformity with the law.

The Nation shall always be responsible for the expropriations made by the Government or by its agents.

31. The penalty of confiscation shall not be imposed.

32. Literary and artistic property shall be protected as transferable property during the lifetime of the author and eighty years thereafter, provided the formalities prescribed by law are observed.

The same guarantee shall be extended to the owners of works published in countries where the Spanish language is spoken, provided the principle of reciprocity is recognised by law in those countries, and there is no need to enter into international agreements for that purpose.

33. The intents and purposes of gifts *inter vivos* or testamentary dispositions made in conformity with the law for public benefit or social interest shall not be

changed or modified by the Legislature. The Government shall control the administration and investment of such gifts.

34. In Colombia no real property shall be inalienable or obligations irredeemable.

35. The freedom of education is guaranteed. The State, however, shall have supreme control and power of inspection of the educational institutions, whether public or private, in order to ensure the fulfilment of the social purposes of education and the best intellectual, moral, and physical training of the students.

Primary instruction shall be free in the schools of the State and obligatory to the extent defined by law.

36. The press shall be free in time of peace; but shall be responsible, in accordance with law, for injuries to personal honour and attempts to disturb social order or public tranquillity.

No newspaper publication shall, without permission from the Government, be subsidised by other Governments or by foreign corporations.

37. Private correspondence by mail or telegraph shall be inviolable. . .

For purposes of taxation, accounting records and other necessary papers may be demanded.

The circulation of printed matter through the post offices may be burdened with taxes, but it shall never be prohibited in time of peace.

38. Every person is free to choose his own profession or trade. The law may require proof of competency and regulate the exercise of the professions.

The authorities shall control the practice of professions and trade in so far as they may affect public morals, or the public safety or health.

The law may restrict the production and consumption of liquor and fermented beverages.

The law may order the investigation and examination of the rates and regulations of transport companies and other public services.

39. Public aid is a function of the State. It shall be granted to those who, deprived of the means of subsistence or of the right to demand it from others, are physically incapacitated to work.

The law shall determine the manner in which aid shall be granted and the cases in which the State itself shall directly give it.

40. Labour is a social obligation and it shall enjoy the special protection of the State.

41. Every person shall have the right to present respectful petitions to the authorities on subjects of general or private interest, and expect prompt attention thereto.

42. Any number of people shall have the right to assemble peacefully. The authorities may disperse any assembly which degenerates into disorder or tumult, or which obstructs the public ways.

43. Popular political meetings of a permanent character shall be prohibited.

Religious associations shall, in order to secure the protection of the laws, file before the civil authority, the authorisation issued in their favour by their respective ecclesiastical superiors.

44. The formation of corporations, associations, and foundations, not opposed to morality or the legal order, shall be permitted. Associations or foundations may obtain recognition as juristic persons.

The right to strike is guaranteed, except in public services. The law shall regulate its exercise.

45. The laws shall regulate the civil status of all persons and define their rights and duties. Likewise, the laws may declare family estates inalienable and free from attachment.

46. The Government alone shall import, manufacture, and have in its possession arms and munitions of war.

No person shall be permitted to carry arms in a town without permission

from the authorities. This permission shall in no case be given to persons attending political meetings, elections, or meetings of assemblies or public corporations, whether as members or as spectators.

48. Any new issue of paper money of legal tender is absolutely prohibited.

#### TITLE IV. RELIGION AND THE RELATIONS BETWEEN CHURCH AND STATE

50. The State guarantees the freedom of conscience.

No one shall be molested on account of his religious opinions, or compelled to profess belief or to observe practices contrary to his conscience.

Freedom of all forms of religion not contrary to Christian morals or law is guaranteed. Acts contrary to Christian morality or subversive of the public order, done under the pretext of practising a religion, are subject to general laws.

#### TITLE VI. THE MEETINGS AND ATTRIBUTIONS OF CONGRESS

69. The power of making laws is vested in Congress.

By means of laws it exercises the following attributions:

- (8) It grants authorisations to the Government for the conclusion of contracts, the negotiation of loans, the alienation of national property and the exercise of other functions within the limits of the Constitution.
- (11) It recognises the national debt and provides for the service thereof.
- (13) It approves or disapproves contracts and agreements concluded by the President of the Republic with private individuals, companies and political entities in which the national treasury has an interest, if they were not previously authorised or if they do not comply with the formalities prescribed by Congress or if some of their provisions are not in conformity with the law authorising them.
- (15) It organises the public credit.
- (16) It decrees the public works to be undertaken or continued and the monuments to be erected.
- (17) It encourages useful and beneficent undertakings worthy of stimulus and support.
- (21) It limits and regulates the appropriation and adjudication of uncultivated lands.

#### TITLE XI. THE PRESIDENT OF THE REPUBLIC AND PRESIDENTS-ELECT

115. The President of the Republic as supreme administrative authority is competent:

- (13) To regulate, direct and inspect national public education;
- (14) To conclude administrative contracts relating to the rendering of services and the execution of public works, in conformity with the fiscal laws and with the obligation of reporting to Congress at its ordinary sessions.
- (15) To exercise the necessary inspection over banks of issue and other credit establishments in accordance with the laws.
- (18) To grant patents for limited periods to the authors of inventions and useful improvements in accordance with the laws.
- (19) To exercise the right of inspection and supervision over institutions of common utility to ensure that their revenues are conserved and duly applied and that the will of their founders is fulfilled in all essential respects.

## TITLE XVIII. DEPARTMENTAL AND MUNICIPAL ADMINISTRATION

184. There shall be in each Department an administrative corporation called the Departmental Assembly which shall meet each year in the capital of the Department.

186. The Assemblies shall be competent:

- (1) To regulate by means of ordinances and in accordance with the precepts of the Constitution establishments for primary and secondary education and charitable institutions which are maintained with the funds of the Department.
  - (2) To direct and encourage by means of ordinances and with the resources of the Department the established industries and the introduction of new ones, the import of foreign capital, the colonisation of lands belonging to the Department, the opening up of roads and navigable canals, the construction of railways, the exploitation of forests belonging to the Department, the canalisation of rivers, the local police, the control of the revenues and expenses of the districts, and matters relating to sectional interests and internal improvements.
- .....

## TITLE XIX. FINANCE

199. The following are the property of the Republic of Colombia:

- (2) The lands, mines, and salt works which belonged to the States, whose ownership passes to the Nation, without prejudice to the rights constituted in favour of third parties by the States, or in favour of the latter by the Nation as compensation.
- (3) The mines of gold, silver, platinum and precious stones existing in the national territory, without prejudice to the rights which have been acquired over some of them in virtue of earlier laws by those discovering and exploiting them.

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## COSTA RICA

### Constitution of the Republic of Costa Rica<sup>1</sup>

*7 December 1871, as Amended to 1942*

#### TITLE III

##### *Section I. National Guarantees*

18. The Legislative Power alone is competent to alienate the national property, decree loans or impose taxes.

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<sup>1</sup> English translation by courtesy of the American Law Institute; for Spanish text, see Andrés María LAZCANO Y MASON: *Constituciones políticas de América*, Vol. I, pp. 373-400, and for the amendments made during 1942, *Ponencia al Segundo Congreso Interamericano de Previsión Social, en Santiago de Chile, presentado por el Doctor don Guillermo Padilla Castro, Agosto de 1942*, p. 16.

23. . . . There are also prohibited in the Republic monopolies, privileges and any other act, even though originating in a law, which reduces or threatens freedom of commerce, agriculture or industry, except those established by the State hitherto or in future to prevent social evils, to stimulate invention, to promote the execution of works or the development of undertakings of unquestionable national interest which cannot be executed or completed without a monopoly or privilege in the judgment of the Legislative Power acting by a majority of two-thirds of all its members, and excepting also those which the municipalities have established hitherto or establish in the future for like purposes with the authorisation of the Legislative Power given by the same majority.

## *Section II. Individual Guarantees*

25. All men are equal before the law.

27. Every man is free in the Republic: no one who enjoys the protection of its laws shall be a slave.

28. All Costa Ricans may go from one part of the Republic to another or leave its territory, provided they are free from any liability, and return whenever they desire.

29. The right of property is inviolable: no one may be deprived of his property, unless it is for the public interest legally proved, and upon prior indemnity at the true valuation of experts named by the parties, who shall estimate not only the value of the thing taken but also the amount of consequential damage resulting. In case of war or internal disturbance, it is not indispensable that indemnity be made beforehand.

33. All inhabitants of the Republic have the right to assemble peacefully and without arms, either to transact private affairs or to discuss political matters and to examine the public conduct of the officials.

34. No person or assemblage of persons may assume the title or representation of the people, arrogate the rights of the latter, or make petitions in their name. The violation of this article shall constitute sedition.

35. The right of petition may be exercised individually or collectively.

36. No person shall be molested or persecuted for any act which is not in violation of the law, or for the expression of political opinions.

However, neither clergymen nor laymen shall engage in political propaganda of any kind, whether for religious reasons, or by taking advantage of the religious beliefs of the people.

37. Everyone may communicate his own ideas to others, either orally or in writing, and may publish them through the press without previous censorship; but he shall be held responsible for any abuse which may be committed in the exercise of this right, in the cases and in the manner established by law.

44. No one shall be imprisoned for debt, except upon conviction of fraud.

45. Human life is inviolable in Costa Rica.

47. Both Costa Ricans and foreigners shall seek redress for injuries or damage done to their person, property, or honour before the courts. Justice shall be administered to them promptly, fully and without denial, and in strict conformity with the laws.

48. Costa Ricans as well as foreigners have the right to settle their differences in civil matters by arbitration, either before or after legal proceedings have been instituted.

50. Private actions not affecting morals or the public order, and doing no injury to third parties, are beyond the power of the law.

*Section III. Social Guarantees*

51. The State of Costa Rica has a social function which consists in procuring for all the inhabitants of the country a minimum of well-being corresponding to political liberties which they enjoy; the State will accomplish this social function by the rationalisation of the production, distribution and consumption of wealth, by giving to the worker the special protection to which he has a right, by protecting mothers, children and the old who are unable to work and by adopting all measures calculated to ensure collective progress and tranquillity.

52. Work is a social duty of the citizen by the accomplishment of which he acquires the right to an existence compatible with human dignity, in conformity with his own capacities.

53. Every manual or intellectual worker shall be guaranteed a minimum wage or salary sufficient to meet his own normal requirements and those of his family from a material, moral and cultural standpoint; this minimum wage or salary shall be fixed periodically with due regard to the special conditions in each region.

54. The ordinary working day shall not exceed eight hours in the case of day work or seven hours in the case of night work, and workers shall be entitled to at least one day's rest with pay in the week and one week's holiday with pay in the year. Overtime work shall not be permitted save in exceptional cases and shall be paid for at a special rate; special regulations respecting overtime and the remuneration therefor shall be laid down by law.

55. The right of employers and workers to form associations exclusively for purposes connected with their economic and social activities is recognised as an inherent right of every human being.

56. The right of employers to declare a lock-out and the right of workers to declare a strike is recognised, except in the case of the public services; both these rights shall be exercised in conformity with regulations to be laid down by law.

57. Collective agreements and contracts entered into between employers and lawfully organised associations of employees shall be binding in law.

58. The State shall encourage the constitution of co-operative societies as a means of promoting better living conditions for the working classes.

59. The State shall ensure the provision of suitable houses for workers and for this purpose shall encourage the construction of cheap houses.

60. Every employer must adopt in his undertaking the measures requisite for hygiene and safety in employment.

61. The State shall supervise the technical training of workers in order to ensure better utilisation of their work and an increase in national production.

62. Equal pay, irrespective of sex, shall be due for equal work performed under identical conditions.

Agricultural workers shall enjoy the same rights as urban workers.

Other things being equal, employers in public or private undertakings shall be bound to give the preference to Costa Rican workers. Where necessary, the law shall fix a minimum proportion of Costa Rican workers to be employed, with due regard not only for the number of workers but also for the total amount of the wages and salaries paid.

63. Social insurance is declared to be an absolute and inalienable right of all manual and intellectual workers; it shall be based on the system of compulsory contributions payable by the State, the employers and the workers themselves, for the purpose of protecting the wages or salaries of workers efficaciously against the social risks of sickness, invalidity, maternity, old age, death, involuntary unemployment and other risks specified by law. The cost of insurance against industrial accidents shall be defrayed exclusively by the employers.

The social insurance funds or reserves shall not be liable to transference and

they shall not be utilised for purposes other than those for which they were constituted.

Social insurance shall be administered and directed by an autonomous institution entitled "The Costa Rican Social Insurance Fund".

Public welfare institutions and the State public assistance system shall provide services free of charge exclusively for indigent persons and persons not protected by the social insurance system.

64. Special courts, consisting of a representative of the State as chairman and an employers' representative and a workers' representative shall be set up to settle any problems which arise out of the relations between capital and labour, for the purpose of the better application of the principles of human brotherhood.

65. The rights and benefits specified in this division cannot be waived. The enumeration herein contained does not exclude other rights and benefits derived from the Christian principles of social justice, which shall be applied equally to all factors in the process of production and shall be incorporated in a Social and Labour Code for the purpose of ensuring a permanent policy of national solidarity.

#### TITLE V. EDUCATION

67. Primary education is compulsory, free and paid for by the Nation. It is under the direction of the Executive Power.

68. Any Costa Rican or foreigner is free to give or receive the instruction which he prefers in establishments not maintained with public funds.

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## CUBA

### Constitution of the Republic of Cuba<sup>1</sup>

5 July 1940

#### LAW No. 1

We, the Delegates of the people of Cuba, assembled in a Constitutional Convention, for the purpose of providing the people with a new Fundamental Law which will consolidate its organisation as an independent and sovereign Nation, suitable for ensuring liberty and justice, maintaining order and promoting the general welfare, resolve, after invoking the favour of God, upon the following Constitution:

#### TITLE I. THE NATION, ITS TERRITORY AND FORM OF GOVERNMENT

1. Cuba is an independent and sovereign Nation organised as a unitary and democratic republic, for the enjoyment of political liberty, social justice, the individual and collective welfare and human solidarity.

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<sup>1</sup> English translation from *The Constitution of the Republic of Cuba*, 5 July, 1940; H. L. LEWIS: *Cuba To-Day, Loose Leaf Law Service of the Laws of Cuba*; for Spanish text, see *Constitución de la República de Cuba*, published in *Gaceta oficial*, 8 July 1940, Havana, Cuba, or Andrés María LAZCANO y MAZON: *Constituciones políticas de América*, Vol. I, pp. 401-516.

7. Cuba condemns wars of aggression; it aspires to live in peace with other nations and to maintain with them cultural and commercial relations and ties.

The Cuban Nation adopts the principles and practices of international law that favour human solidarity, respect for the sovereignty of peoples, and reciprocity between nations, and universal civilisation.

## TITLE II. NATIONALITY

10. A citizen is entitled:

(a) To reside in his country without being subjected to any discrimination or extortion of any kind, no matter what his race, class, political opinions or religious beliefs.

(c) To receive the benefits of social assistance and public co-operation, after evidencing in the first case the fact that he is a pauper.

(d) To perform public functions and hold public offices.

(e) To the preference directed by the Constitution and the law, with respect to labour.

## TITLE III. ALIENAGE

19. Aliens residing in the territory of the Republic shall have the same status as Cubans:

(a) With respect to the protection of their persons and property.

(b) With respect to the enjoyment of the rights recognised in this Constitution, except as to those exclusively granted to natives.

The Government, nevertheless, has the power to compel an alien to leave the national territory in the cases and manner specified by law.

In the case of aliens with a Cuban family established in Cuba, a judicial decision shall be necessary to accomplish the expulsion, as prescribed by the law on the subject.

The organisation of associations of aliens shall be regulated by law, without permitting of discrimination against the rights of Cubans who form part of such associations.

(c) As to the obligation to abide by the social economic régime of the Republic.

(d) As to the obligation to observe the Constitution and the law.

(e) As to the obligation to contribute towards public expenses in the manner and amount directed by law.<sup>41</sup>

(f) As to submission to the jurisdiction and resolutions of the courts and authorities of the Republic.

(g) In the enjoyment of civil rights, under the conditions and with the limitations prescribed by law.

## TITLE IV. FUNDAMENTAL RIGHTS

### *Section I. Individual Rights*

20. All Cubans are equal before the law. The Republic recognises neither personal exemptions nor privileges.

All discrimination by reason of sex, race, colour, class, or any other that detracts from human dignity, is declared unlawful and punishable.

The sanctions incurred by those who violate this precept shall be established by law.



21. Penal laws shall have retroactive effect when they are favourable to the delinquent. . .

22. No other laws shall have retroactive effect, unless the law itself so determines for reasons of public order, of social utility, or national necessity, expressly specified in the law, which must have a favourable vote of two-thirds of the total number of members of each co-legislative body. If the grounds for retroactivity are impugned in unconstitutionality proceedings, it shall be the Court of Constitutional and Social Guarantees that shall decide thereon, and it can not, for technical reasons or any other motive whatever, refrain from doing so.

In every case the law itself must establish the degree, manner and form in which indemnity will be paid for the damages, if any, which the retroactivity causes to rights legitimately acquired in accordance with prior legislation.

A law approved in accordance with this article shall not be valid if it produces effects contrary to the provisions of article 24 of this Constitution.

23. Obligations of a civil character arising from contracts or from other acts or omissions producing them can not be annulled or altered by either the Legislative or the Executive Branch, and laws can consequently not have retroactive effect with respect to said obligations. The exercise of the rights of action derived from them can be suspended in a case of serious national crisis, for such time as is reasonably necessary, by means of the same requisites and subject to the impugnability referred to in paragraph first of the preceding article.

24. Confiscation of property is prohibited. No one can be deprived of his property except by competent judicial authority and for a justified cause of public utility or social interest, and always after payment of the corresponding indemnity in cash, judicially fixed. Non-compliance with these requisites shall determine the right of the person whose property has been expropriated, to be protected by the courts, and, if the case calls for it, to have his property restored to him.

The reality of the cause of public utility or social interest, and the need for the expropriation, shall be decided by the courts in case of impugnation.

25. The death penalty can not be imposed. Exception is made as to members of the armed forces, for crimes of a military character, and as to persons guilty of treason, or of espionage in favour of the enemy at a time of war with a foreign nation.

26. . . . .

Persons arrested or imprisoned for political or social reasons shall be confined in separate quarters from common criminals, and shall not be required to do any labour whatever nor subjected to the prison regulations for common prisoners.

No arrested person or prisoner shall be kept isolated.

. . . . .

27. . . . .

Persons imprisoned but not yet convicted shall be kept in places distinct and completely separate from those utilised for serving sentences, and those so imprisoned can not be compelled to do any work whatever or be subjected to the prison regulations for those serving sentences.

30. Any person can enter and remain in the national territory, leave it, remove from one place to another, and change his residence, without necessity for a letter of safe-conduct, passport or other similar requisite, except what is provided by the immigration laws and the powers of the authorities in case of criminal liability.

No one shall be compelled to change his domicile or residence, except by mandate of a judicial authority and in the cases and with the requisites specified by law.

No Cuban can be expatriated nor shall his entry into the territory of the Republic be prohibited.

31. The Republic of Cuba offers and recognises the right of asylum for political refugees, provided that those who take advantage of it respect the national sovereignty and laws.

The Nation will not authorise extradition of those guilty of political crimes nor will it attempt to obtain extradition of Cubans guilty of those crimes who take refuge in foreign territory.

When expulsion of an alien from the national territory is proper in accordance with the Constitution and the law, the expulsion shall not be effected, in the case of a political exile, to the territory of the nation that may claim him.

33. Every person can, without subjection to prior censorship, freely express his thoughts orally, in writing or by any other graphic or oral means of expression, utilising for the purpose any or all of the available means of diffusion.

Editions of books, booklets, phonograph records, films, newspapers or publications of any kind can be seized only when they attack the honour of persons, the social order or the public peace, and as the result of a resolution, stating its reasons, issued by a competent judicial authority and without prejudice to the responsibilities resulting from the criminal act committed.

In the cases to which this article refers, there can be no seizure of or interference with the use and enjoyment of the premises, equipment or instruments used by the organ of publicity in question, except for civil liability.

35. The profession of all religions, as well as the exercise of all cults, is unrestricted, without other limitation than respect for Christian morality and public order.

The Church shall be separate from the State, which can not subsidise any cult.

36. Every person is entitled to address petitions to the authorities and to have them attended to and decided in periods not greater than 45 days, with notice of the decision made.

On lapse of the period fixed by law, or, if there is none, of the period above specified, the interested party can appeal in the manner authorised by law, as if his petition had been denied.

37. The inhabitants of the Republic are entitled to assemble peacefully and without arms, to parade and associate themselves for all lawful purposes of life, in accordance with the corresponding legal norms, without other limitation than that indispensable to ensure public order.

The formation and existence of political organisations contrary to the régime of the democratic representative Government of the Republic, or which attack the completeness of the national sovereignty, are unlawful.

## TITLE V. THE FAMILY AND CULTURE

### *Section I. The Family*

43. The family, maternity and marriage have the protection of the Nation. Marriage shall be valid only when performed by officers with legal capacity to do so. Judicial matrimony is gratis and shall be maintained by law.

Matrimony is the legal basis of the family and shall rest on an absolute equality of rights for both spouses; its economic régime shall be organised in accordance with this principle.

A married woman has full civil capacity, and does not require permission or authorisation from her husband to control her property, freely engage in commerce or industry, or exercise any profession, trade or art, and to dispose of the proceeds of her labour.

Marriage can be dissolved by agreement of the spouses or on petition of either of the two for the reasons and in the manner established by law.

The courts shall determine those cases in which, for reasons of equity, a union between persons with legal capacity to marry shall, because of its stability and exceptional nature, be given the same status as civil marriage.

Living allowances for the woman and the children shall enjoy preference over every other obligation, and against that preference no plea can be made of non-attachability of any property, salary, pension or economic income, regardless of its kind.

Unless the woman has proven means of subsistence, or is declared guilty, an allowance shall be fixed for her in proportion to the financial position of the husband and also taking into account the needs of social life. This allowance shall be paid and guaranteed by the divorced husband and shall continue until his ex-spouse again marries, without detriment to the allowance that will be fixed for each child, which must also be guaranteed.

Adequate penalties shall be imposed by law on those who, in case of divorce, of separation or for any other reason, seek to escape or elude that responsibility.

44. Parents are obligated to support, aid, train and educate their children, and the latter to respect and aid their parents. The law shall see to the fulfilment of these duties, by adequate guarantees and sanctions.

Children born out of wedlock to a person who at the time of conception was competent to marry have the same rights and duties as specified in the preceding paragraph, except as to what the law prescribes with respect to inheritance. To this end, the same rights shall pertain to those born out of wedlock to a married person, when such person acknowledges them, or the relationship is declared by a court decision. Investigation of paternity shall be regulated by law.

All qualifications as to the nature of the relationship are abolished. No statement whatever shall be entered, differentiating births, nor as to the marital status of the parents, in the birth records, nor in any certification, record of christening or certificate referring to the relationship.

45. The fiscal régime, insurance and social aid shall be applied in accordance with the standards of protection for the family, established in this Constitution.

Childhood and youth are protected against exploitation and moral and material abandonment. The Nation, Provinces and municipalities shall organise adequate institutions for the purpose.

46. Subject to the restrictions specified in this Constitution, Cubans shall be at liberty to bequeath one-half of the estate.

## *Section II. Culture*

47. Culture in all of its manifestations is a primordial interest of the Nation. Scientific investigation, artistic expression and the publication of the results thereof are unrestricted; as is teaching, without prejudice, with respect to the last-named, to the inspection and regulation to which the Nation is entitled and which is established by law.

48. Primary instruction is obligatory for minors of school age, and it shall be furnished by the Nation, without prejudice to the co-operation entrusted to municipal initiative.

Both this instruction and pre-primary and vocational instruction shall be gratis when given by the Nation, Province or municipality. The necessary school supplies shall also be gratis.

Lower secondary instruction and all higher instruction furnished by the Nation or the municipalities shall be gratis, excluding specialised pre-university and university study.

At the institutes now created or which may be created in future, having a

pre-university status, there can be maintained or established by law the payment of a modest matriculation fee by way of co-operation, which shall be devoted to the requirements of each establishment.

So far as possible, the Republic shall offer scholarships for the enjoyment of official instruction that is not gratis, to youths who, having shown outstanding vocation and aptitude, are prevented by insufficient resources from taking such studies for their own account.

49. The Nation shall maintain a system of schools for adults, devoted particularly to the elimination and prevention of illiteracy; predominantly practical rural schools, organised with a view to the interests of the small agricultural, maritime or other communities, and schools of arts and trades and of agricultural, industrial and commercial technique, so oriented that they will meet the needs of the national economy. All of this instruction shall be gratis, and the Provinces and municipalities, to the extent of their abilities, shall collaborate in their maintenance.

50. The Nation shall maintain the normal schools indispensable for the technical preparation of the teachers charged with the primary instruction in the public schools. No other institution can issue titles to primary teachers, with the exception of the Schools of Pedagogy of the Universities.

The foregoing provisions are no bar to the right of schools created by law to issue teaching titles in connection with the special matters which they teach.

The teaching titles of special capacity shall carry the right to preferential appointment to positions that are vacant or are created in the respective schools and specialties.

In order to teach domestic science, cutting and fitting, and industries for women, it is necessary to possess the title of teacher of economy, arts, domestic sciences and industries, issued by the "Escuela del Hogar" (domestic science school).

51. Public instruction shall be organised in an organic form, so that there will be an adequate articulation and continuity among all its grades, including the higher ones. The official system shall provide for vocational stimulation and development, bearing in mind the multiplicity of professions and taking into account the cultural and practical needs of the Nation.

All instruction, public or private, shall be inspired by a spirit of Cubanism and human solidarity, tending to form in the conscience of students a love for country, its democratic institutions and all those who fought for the former and the latter.

52. Financial provision for all public instruction shall be made in the budgets of the Nation, the Province or the municipality, and it shall be under the technical and administrative direction of the Ministry of Education, except such teaching as by its special nature is dependent on other Ministries.

The budget of the Ministry of Education shall not be less than the ordinary budget of any other Ministry, except in case of an emergency declared by law.

The monthly salary of primary teachers must not in any case be less than one-millionth of the total budget of the Nation.

The official teaching staff has the rights and duties of public officers.

The designation, promotions, transfers and removal of public teachers and professors, inspectors, technicians and other school officers shall be so regulated that they shall be influenced by no considerations other than strictly technical ones, without detriment to vigilance as to the morals of such officers. All positions in the direction and supervision of official primary instruction shall be filled by technical graduates of the corresponding University course.

53. The University of Havana is autonomous and shall be governed in accordance with its Statutes and with the law, to which the Statutes must conform.

The Nation shall contribute to create the University patrimony and to the

maintenance of said University, allotting for this purpose, in its national budgets, the amount fixed by law.

54. Official or private universities can be created, and any other institutions and centres of higher learning. The conditions by which they will be regulated shall be determined by law.

55. Official instruction shall be laic. Centres of private instruction shall be subject to regulation and inspection by the Nation, but in every case shall retain the right to give, separately from the technical instruction, the religious education which they desire.

56. In all teaching centres, public or private, the teaching of the literature, history and geography of Cuba, as well as of civics and the Constitution, must be done by teachers who are Cubans by birth and with text books of authors having that same character.

57. To engage in teaching, it is necessary to evidence the capacity to do so, in the manner fixed by law.

The non-teaching professions, arts or trades that require degrees for their exercise, and the manner in which they shall be obtained, shall be determined by law. The Nation shall ensure preference, in the furnishing of public services, to citizens officially prepared for the respective specialty.

58. The Nation shall regulate by law the conservation of the cultural treasures of the Nation, its artistic and historic wealth, and shall especially protect national monuments and places notable for their natural beauty or their acknowledged artistic or historic value.

59. A National Council on Education and Culture shall be created, which, under the Chairmanship of the Minister of Education, shall be charged with developing, technically orienting or inspecting the educational, scientific and artistic activities of the Nation.

Its opinion shall be heard by Congress on every bill relating to matters of its competency.

Positions on the National Council on Education and Culture shall be honorary and gratuitous.

## TITLE VI. LABOUR AND PROPERTY

### *Section I. Labour*

60. Labour is an inalienable right of the individual. The Nation shall employ the resources within its reach to furnish employment to every one who lacks it and shall assure to every manual or intellectual worker the economic conditions necessary to a fitting existence.

61. Every manual or intellectual worker of public or private enterprises, the Nation, Provinces or municipalities, shall be guaranteed a minimum wage or salary, which shall be determined in accordance with the conditions of each region and the normal needs of the worker, from a material, moral and cultural standpoint, and considering him as the head of a family.

The method of periodically regulating minimum wages or salaries, by means of commissions on which employers and workers shall be equally represented, for each branch of labour, in accordance with the standard of living and the peculiarities of each region and each industrial, commercial or agricultural activity, shall be determined by law.

In piece work, work for an agreed price or lump sum, it shall be obligatory that the minimum wage for a working day be reasonably assured.

The minimum of every wage or salary is non-attachable, except for liabilities for living allowances in the manner established by law. Instruments of labour of the workers are also non-attachable.

62. A like wage shall always be paid for like work under identical conditions, regardless of the persons who perform it.

63. No deduction not established by law can be made from the salary or wages of manual and intellectual workers.

Claims in favour of workers for pay and day wages earned in the last year shall have preference over all others.

64. Payment in "vales", tokens, merchandise or any other symbols by which it is sought to substitute legal tender money is totally prohibited. Violation shall be penalised by law.

Day workers shall receive their wages in a period of not greater than one week.

65. Social security is established as an irrenounceable and non-prescribable right of workers, with the equitable concourse of the Nation, employers and the workers themselves, in order to protect the last-named in an efficacious manner against disability, old age, unemployment and other contingencies of labour, in the manner determined by law. The right of retirement for long service and that of pension by reason of death are also established.

The administration and government of the institution referred to in the first paragraph of this article shall be in charge of bodies chosen by employers and workers, on which they shall be equally represented and with the participation of a representative of the Nation, in the manner determined by law, except in case the Nation creates a Social Security Bank.

Insurance against labour accidents and occupational diseases is likewise declared obligatory, exclusively at the expense of employers and under supervision of the Nation.

Social security funds or reserves can not be subjected to transfer nor can they be disposed of for purposes other than those for which they were created.

66. A maximum day's work can not exceed eight hours. This maximum can be reduced to six hours daily for those over 14 and less than 18 years of age.

The maximum working week shall be 44 hours, equivalent to 48 in wages, excepting the industries which because of their nature, must produce uninterruptedly during a certain part of the year, until the definitive regimen of this exception is determined by law.

Work and apprenticeship of minors of less than 14 years is prohibited.

67. The right to paid rest of one month for each eleven months of work in each calendar year is established for all manual and intellectual workers. Those who, because of the nature of their work or other circumstances, have not worked the eleven months, are entitled to paid rest in proportion to the time worked.

When on a national day of mourning or holiday the workmen do not work, employers must pay them the corresponding wages.

There shall be only four national days of mourning and holidays on which it shall be obligatory to close industrial or commercial establishments or public spectacles, as the case may be. The others shall be official days of mourning or holidays and shall be celebrated without suspending the economic activities of the Nation.

68. No difference can be established between married and unmarried women with respect to their work.

Protection for maternity among the working class shall be regulated by law, which shall extend it to women employees.

A pregnant woman can not be discharged from her work, nor shall she be required to effect, in the three months prior to childbirth, labour requiring considerable physical effort.

During the six weeks immediately preceding childbirth, and the six that follow it, she shall enjoy compulsory rest, with compensation equal to what she was paid for working, retaining her position and all the rights attached to it and covered by her labour contract. In the nursing period she shall be allowed two special rest periods a day, of one-half hour each, to nurse her child.

69. The right of syndicalisation is acknowledged to employers, private employees and workers, for the exclusive purposes of their economic-social activities.

The competent authority shall have a period of 30 days to admit or reject the recording of a labour or employer syndicate. The record shall determine the juridic capacity of the labour or employer syndicate. The recognition of the syndicate by employers and workers, respectively, shall be regulated by law.

Syndicates can not be definitively dissolved without a final decision of the courts.

Boards of directors of these associations shall be composed exclusively of Cubans by birth.

70. Obligatory official association is established for the exercise of professions requiring university degrees. The manner of constitution and functioning in such entities, of a superior body of a national character, and of the local bodies that are necessary, in such manner that they will be governed by the majority of their associates, with full authority, shall be determined by law.

Obligatory association of the other professions officially recognised by the Nation shall also be regulated by law.

71. The right of workers to strike, and of employers to stop work, is recognised, in conformity with regulations which will be established by law for the exercise of both rights.

72. The system of collective labour contracts, which shall be of obligatory fulfilment by employers and workers, shall be regulated by law.

Stipulations implying renunciation, diminution, impairment or waiver of any right recognised in favour of the worker, in this Constitution or by law, shall be null and shall not be binding on the contracting parties, even though they are expressed in a labour contract or any other pact whatever.

73. Cubans by birth shall be given a preponderating participation in labour, both in the total amount of wages and salaries, and in the different categories of work, in the manner determined by law.

Protection shall also be given to naturalised Cubans with a family born in the national territory, in preference to naturalised Cubans who do not meet those requirements, and over foreigners.

In the holding of indispensable technical posts, foreigners shall be excepted from the provisions in the foregoing paragraphs, subject to the formalities specified by law and always on the conditions of teaching native apprentices the technical work in question.

74. The Minister of Labour shall see, as an essential part among others of his permanent social policy, that in the distribution of opportunities to work in industry and commerce, no discriminatory practices of any kind prevail. In removals of personnel and in the creation of new positions, as well as in new factories, industries or businesses that are established, it shall be obligatory to distribute the opportunities for work without distinction as to race or colour, provided the requisite qualifications as to ability are met. It shall be provided by law that every other practice shall be punishable and prosecutable on official initiative or at the instance of an affected party.

75. The formation of co-operative enterprises, whether commercial, agricultural, industrial, of consumption, or of any other character, shall be favoured by law; but the definition, constitution and functioning of such enterprises shall be so regulated by law that they shall not serve to elude or impair the provisions which this Constitution establishes for the labour regimen.

76. Immigration shall be regulated by law, taking into consideration the national economic régime and social needs. Importation of contract labourers is prohibited, as is all immigration that tends to reduce working conditions to a low level.

77. No enterprise can discharge a worker without due proceedings and the other formalities established by law, which shall determine the just causes for discharge.

78. An employer shall be responsible for fulfilment of social laws, even when he contracts the work through an intermediary.

In all industries and kinds of work in which technical knowledge is required, apprenticeship in the form established by law shall be obligatory.

79. The Nation shall promote the building of cheap dwellings for workers.

The enterprises shall be determined by law which, because they employ workers away from populated places, shall be required to furnish to the workers suitable dwellings, schools, infirmaries and other services and attentions favourable to the physical and moral welfare of the worker and his family.

The conditions that must be met by shops, factories and working premises of all kinds shall in like manner be regulated by law.

80. A social welfare service shall be established under the direction of the Ministry of Health and Social Welfare, organising it by means of the pertinent legislation, and providing the necessary reserves through funds determined by law.

The hospital, sanitary, forensic and other careers are established that are necessary to organise in an adequate manner the corresponding official services.

Beneficent institutions of the Nation, Provinces and municipalities shall furnish their services gratuitously only to paupers.

81. Mutuality is recognised as a social principle and practice.

Its functioning shall be regulated by law in such manner that persons of modest resources shall enjoy its benefits, and it will serve, at the same time, as a just and adequate protection to professional men.

82. Professions which require an official title, with the exception of what is provided in article 57 of this Constitution, can be practiced only by Cubans by birth and the naturalised ones who were naturalised five years or more prior to the date on which they apply for authorisation to practice. Congress can, nevertheless, by a special law, provide for the temporary suspension of this precept when, for reasons of public utility, the co-operation of foreign professional men or technicians is necessary or advisable in carrying out public or private initiatives of national interest. The law which so provides shall fix the scope and term of the authorisation.

In the fulfilment of this precept, and in the cases in which a law or regulation regulates the exercise of any new profession, art or trade, the right to work acquired by persons who up to that time had practised the profession, art or trade in question, shall be respected and the principles of international reciprocity shall be observed.

83. The manner in which factories and shops can be moved from one place to another shall be regulated by law, for the purpose of preventing the lowering of working conditions.

84. Problems deriving from the relations between capital and labour shall be submitted to conciliation commissions, composed of an equal number of representatives of employers and workers. The judicial officer who will preside over said commissions and the national court to which their resolutions shall be appealable, shall be specified by law.

85. In order to ensure execution of social legislation, the Nation shall provide for vigilance and inspection of the enterprises.

86. The enumeration of the rights and benefits to which this section refers does not exclude others that are derived from the principle of social justice, and they shall be equally applicable to all factors concurrent in the process of production.

## *Section II. Property*

87. The Cuban Nation recognises the existence and legitimacy of private property in its broadest concept as a social function and without other limitations than those which, for reasons of public necessity or social interest, are established by law.

88. The subsoil pertains to the Nation, which can grant concessions for its



exploitation, as established by law. Mining rights granted and not exploited within the period fixed by law shall be declared null and restored to the Nation.

The land, the forests, and concessions for exploitation of the subsoil, utilisation of waters, means of transportation, and every other public service enterprise, must be exploited in a manner that tends to social well-being.

89. The Nation shall have the right, at every forced sale or award of real estate, and of securities representing real estate, to bid it in by meeting the most favourable terms offered by any other bidder.

90. Large landholdings are proscribed, and to do away with them the maximum amount of land that each person or entity can have, for each kind of exploitation to which land is devoted, and bearing in mind the respective peculiarities, shall be specified by law.

The acquisition and possession of land by foreign persons and companies shall be restrictively limited by law, which shall provide measures tending to restore the land to Cubans.

91. The head of a family who inhabits, cultivates and directly exploits a rural property owned by him, provided the value of it is not more than \$2,000, can irrevocably declare it to be family property, to the extent that this is indispensable for his residence and subsistence, and it shall be exempt from taxes and shall be unattachable and inalienable except for liabilities prior to this Constitution. Improvements which exceed the aforesaid amount shall pay the corresponding taxes in the manner established by law. In order that said property may be exploited, its owner can encumber or pledge crops, plantings, produce and products thereof.

92. Every author or inventor shall enjoy the exclusive ownership of his work or invention, with the limitations, as to time and manner specified by law.

Concessions for industrial and commercial marks (trademarks) and other recognitions of commercial reputation, with indications of Cuban origin, shall be null if they are used in any manner to protect or cover articles manufactured outside of the national territory.

93. No perpetual encumbrances can be imposed on property, in the form of "censos" and others of analogous nature, and their establishment is therefore prohibited. Congress shall, within a period of three sessions, approve a law regulating the liquidation of existing ones.

"Censos" or encumbrances already established or that may be established for the benefit of the Nation, the Province or the municipality, or in favour of public institutions of all kinds or of private beneficent institutions, are excepted from the provisions of the foregoing paragraph.

94. It is an obligation of the Nation to take a census of the population each ten years, that will reflect all economic and social activities of the country, and also to publish regularly a statistical annual.

95. Property of beneficent institutions is declared non-prescribable.

96. Parcels of land that were donated by persons of the old Spanish nobility for the foundation of a town or city and were actually used for that purpose, acquiring the character of a municipality, but were subsequently occupied or recorded by the heirs or successors of the donor, are declared of public utility and consequently subject to expropriation by the Nation, Province or municipality.

Residents of said town or city who possess buildings or occupy lots in the urbanised part can obtain from the expropriating entity the conveyance of the ownership and possession of the lots or parcels they occupy, by means of payment of the corresponding proportional price.

102. The organisation of political parties and associations is unrestricted. Political groups based on race, sex or class can not, however, be formed.

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## TITLE IX. THE LEGISLATIVE POWER

*Section V. Congress and its Attributes*

134. The following are non-delegable faculties of Congress:

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(h) To enact provisions for the regimen and development of domestic and foreign trade; of agriculture and industry, insurance covering labour and old age, maternity and unemployment.

(i) To regulate the services of communications, take care of the regimen of railroads, roads, canals and ports, and land, air and water traffic, creating those which public convenience requires.

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## TITLE XIV. THE JUDICIARY

*Section III. The Court of Constitutional and Social Guarantees*

182. The Court of Constitutional and Social Guarantees is competent to take cognisance of the following matters:

(a) Unconstitutionality appeals against laws, decree-laws, decrees, resolutions or acts that deny, diminish, restrict or impair the rights and guarantees specified in this Constitution or that impede the unrestricted functioning of Government bodies.

(e) Juridico-political questions and those of social legislation which the Constitution and the law submit to its consideration.

*Section VI. The Superior Council of Social Defence and Juvenile Courts*

192. There shall be a Superior Council of Social Defence which shall be charged with seeing to the execution of the sanctions and the measures of security that imply deprivation or limitation of individual liberty as well as with the organisation, direction and administration of all establishments or institutions required for the most efficacious prevention and repression of criminality.

This body, which shall be autonomous in the exercise of its technical and administrative functions, shall also have charge of the granting and revocation of conditional liberty, in accordance with law.

193. Juvenile Courts are created.

Their organisation and functioning shall be regulated by law.

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## TITLE XV. THE MUNICIPAL RÉGIME

*Section I. General Provisions*

213. The municipal Government shall especially:

(a) Furnish all local public services; purchase, construct and operate public service enterprises, or render said services by means of a concession or contract, with all guarantees established by law; and acquire, by expropriation or by purchase, the properties necessary for the purposes indicated. It can also operate enterprises of an economic character.

(b) Effect local public improvements, and to acquire by purchase, in agreement with its owners, or by expropriation, the properties directly necessary for the proposed work, and those that are advisable to reimburse itself for the cost thereof.

(c) Create and manage public schools, museums and libraries, physical training and recreation grounds, without prejudice to what is established by law as to education; and adopt and execute, within the limits of the municipality, sanitary and local police regulations and other similar provisions that are not contrary to law, as well as promote the establishment of production and consumption co-operatives and expositions and botanical and zoological gardens, all having the character of a public service.

(d) Appoint municipal employees in accordance with what is established by this Constitution and the law.

(e) Prepare its budgets of expenditures and revenues and establish the taxes necessary to cover them, provided they are compatible with the tax system of the Nation.

Municipalities can not reduce or suppress revenues of a permanent character without at the same time establishing others to take their place, unless the reduction or suppression results from the reduction or suppression of equivalent permanent expenses.

Allotments appearing in the budget for expenditures shall be divided into twelfth parts, and no need of the current month shall be paid if all those of the previous month have not been liquidated.

(f) To resolve to borrow money, at the same time voting the permanent revenues necessary for the payment of the interest and amortisation thereof.

No municipality can contract obligations of this kind without a prior favourable report of the Tribunal of Accounts.

In case new taxes are resolved on for the payment of the obligations to which the foregoing paragraph refers, it will require, in addition, the favourable vote, at a referendum election, of one more than half of the votes cast by voters of the Municipal District, and the vote can not be less than 30 per cent. thereof.

(g) To contract economic obligations for future payment, to cover the cost of public works, with the duty of including in successive annual budgets the allotments necessary to meet them, and provided that their payment does not absorb the economic capacity of the municipality to render the other services in its charge. No municipality can contract obligations of this kind without a favourable prior report from the Tribunal of Accounts and also a favourable vote of two-thirds of the members composing the municipal council or commission.

(h) The enumeration of these faculties, as well as any other that is made by law, does not imply a limitation or restriction of the general faculties granted by the Constitution to municipalities, being only the expression of a part thereof, without prejudice to the provisions of article 212 of this Constitution.

Inter-municipal trade, communications and transit can not be taxed by municipalities. Speculation or unfair competition that might result from measures adopted by municipalities is prohibited. Municipal taxes on articles of prime necessity shall be adjusted to the bases established by law.

214. The Government of each municipality is obligated to meet the following minimum local needs:

(a) The punctual payment of salaries and wages to municipal officers and employees, in accordance with the standard of living of the locality.

(b) The maintenance of an asylum and local welfare building, a workshop and an agricultural school.

(c) The maintenance of a police force and a fire department.

(d) The functioning, at least in the seat of Government, of a school, a library, a centre of popular culture and a first-aid station.

215. In each municipality there shall be a Commission on Urbanisation which shall be obligated to lay out the plan of extension and embellishment of the city, and to see to its execution, bearing in mind present and future needs of public transit, hygiene, beauty and the common well-being.

Said Commission shall attend to everything relating to living quarters for workers and shall propose plans of erection of houses for workers and farmers, which can be acquired by payment over a long term of a modest rental which will return to the municipality the principal invested. Municipalities shall proceed to execute the plan which they approve, obligatorily including in their budgets, out of regular revenues, the amounts necessary for that purpose, which can not be less than the cost of one house in each fiscal period, or resorting to the means offered them by the Constitution to effect works of this nature, in case their regular revenues are not sufficient for the purpose.

There shall likewise be a Commission on Local Roads, which shall be obliged to plan, construct and maintain those which, according to a plan and regimen previously resolved upon, favour the exploitation, transportation and distribution of the products.

216. The urbanisation of hamlets or inhabited sections contiguous to the bateys of sugar mills or any other agricultural or industrial exploitation of analogous nature shall be determined by law.

## TITLE XVI

### *Sole Section. The Provincial Régime*

242. It is the function of the Provincial Council:

(a) To draw up its regular budget of revenues and expenditures and determine the quota which must obligatorily be contributed by each municipality in a like proportion — based on its revenues — to meet the expenses of the Province.

(b) To render public services and execute works of Provincial interest, especially in the branches of health and social welfare, education and communications without contravening the laws of the Nation.

(c) To resolve on loans for effecting public works, or Provincial plans of a social or economic character, and at the same time to vote the permanent revenues necessary for the payment of their interest and amortisation. No loan can be resolved on without a prior favourable report of the Tribunal of Accounts and a resolution of two-thirds of the members of the Provincial Council.

In case new taxes are resolved on for the payment of the obligation to which the preceding paragraph refers, it shall also be necessary that there be a favourable vote, at a referendum election, of one more than half of the votes cast by the voters of the Province, and the number of votes can not be less than 30 per cent. thereof.

(d) To appoint and remove Provincial employees in accordance with this Constitution and the law.

## TITLE XVII. NATIONAL FINANCES

### *Section I. Properties and Finances of the Nation*

251. In addition to the property of the public domain and its own properties, the Nation is the owner of all property existing in the territory of the Republic which does not pertain to the Provinces or the municipalities, or individually or collectively to private owners.

252. Property owned by the Nation can be alienated or encumbered only under the following conditions:

(a) That Congress so resolve by a special law, for a reason of social necessity or convenience; and always by a vote of two-thirds of each co-legislative body.

(b) That the sale be made in response to public bidding. In the case of a lease, procedure shall be as directed by law.

(c) That the proceeds be destined to create work, attend to services or satisfy public needs.

The alienation or encumbrance can, nevertheless, be resolved upon in a regular law and without the requisite of public bidding, when it is done to carry out a national economic plan approved in a special law.

253. The Nation shall not concert loans except by virtue of a law approved by two-thirds of the total number of members of each co-legislative body, in which at the same time the permanent revenues necessary for the payment of interest and amortisation are voted.

254. The Nation guarantees the public debt, and, in general, every operation which implies economic liability for the national Treasury, provided it was contracted in accordance with the provisions of the Constitution and the law.

## *Section II. The Budget*

255. All revenues and expenditures of the Nation, with the exception of those mentioned later, shall be provided for and fixed in annual budgets, and shall be in force only during the year for which they were approved.

The monies, special funds or private patrimonies of bodies authorised by the Constitution or by law, and devoted to social security, public works, development of agriculture and industrial, stock raising, commercial or professional activities, and in general to the development of the national wealth, are excepted from the provisions of the preceding paragraph. These funds or their taxes shall be delivered to the autonomous body and administered by it, in accordance with the law which created them, subject to audit by the Tribunal of Accounts.

Expenses of the Legislative and Judicial Branches, those of the Tribunal of Accounts and those of the interest and amortisation of loans, and the revenues by which they are to be covered, shall be permanent in character and shall be included in the fixed budget that shall be effective until revised by special laws.

256. For the purposes of protection of the general and national interests, in any line of production, as well as of the professions, obligatory associations or producers can be established by law, which shall determine the manner of constitution and the functioning of the national bodies and of the regional ones that are necessary, in such manner that at all times they shall be governed by a majority of their members, with full authority; likewise granting them the right to meet the needs of their organised action by dues that will be imposed by operation of said law.

The budgets of these bodies or co-operatives shall be audited by the Tribunal of Accounts.

264. The Nation, without prejudice to the other means within its power, shall regulate the development of the national wealth by means of the execution of public works payable in whole or in part by those directly benefited. The adequate manner and procedure whereby the Nation, the Province or the municipality, on its own initiative or having recourse to private initiative, shall promote the execution of such works, grant the pertinent concessions, authorise the fixing, the assessment and the collection of taxes for those purposes, shall be determined by law.

*Section III. The Tribunal of Accounts*

268. . . Members of the Tribunal of Accounts can not have any direct or indirect material interest in any agricultural, industrial, commercial or financial enterprise connected with the Nation, the Province or the municipalities.

*Section IV. The National Economy*

271. The Nation shall orient the national economy for the benefit of the people, in order to ensure to each individual a decorous existence.

The development of the national agriculture and industry shall be a primordial function of the Nation, which shall seek the diversification thereof as sources of public wealth and collective benefit.

272. The ownership and possession of real estate and the exploitation of agricultural, industrial, commercial, banking and any other kind of enterprises or business, by foreigners located in Cuba, or who carry on their operations in Cuba, although located outside thereof, are subject in an obligatory manner to the same conditions which the law establishes with respect to Cubans, which conditions must, in every case, accord with the social-economic interests of the Nation.

273. The increment in the value of land and of real estate, produced without effort in the form of labour or private capital, and solely as a result of the action of the Nation, a Province or municipality, shall accrue to the benefit of these latter in the proportional part determined by law.

274. Stipulations of lease, cane-planting or share-cropping contracts of rural properties that impose the renunciation of rights recognised in the Constitution or in the law, and also any other pacts which the law or the courts declare abusive, shall be null.

In regulating said contracts, the adequate norms shall be established to govern the rentals, which shall be flexible, with a maximum and a minimum depending on the use, productiveness, location and other circumstances of the leased property; to fix the minimum of duration of said contracts, according to said elements, and to guarantee to the lessee, planter or share-cropper a reasonable compensation for the value of the improvements and betterments that he delivers in good order and that he has effected at his expenses with the express or tacit consent of the owner, or because they were required by the exploitation of the realty, because of its use.

The lessee shall not be entitled to said compensation if the contract is terminated ahead of time because of his fault, nor when he refuses an extension offered him under the same conditions in force when the contract expires.

Crop lien and cane-grinding contracts, as well as the delivery of other products by those who produce them, shall also be regulated by law, granting the former due protection.

275. The planting and grinding of administration cane shall be regulated by law, being reduced to the minimum limit imposed by the social-economic need for maintaining the sugar industry on a basis of separation of the two large factors which concur in its development; industrialists, or sugar producers, and farmers or planters, who produce the cane.

276. Laws and provisions which create private monopolies, or which regulate commerce, industry and agriculture in such a manner as to produce that result, shall be null and void. The law shall especially provide that commercial activities in centres of agricultural and industrial labour can not be monopolised for private benefit.

277. Public services, whether national or local, shall be considered of social interest. In consequence, the Nation, the Provinces and the municipalities, in their

respective cases, shall be entitled to supervise them, issuing the necessary measures for the purpose.

278. No consumption tax shall be imposed on any domestic raw material which, whether or not it is a product of agriculture, is destined to manufacturing or exportation.

Nor shall any consumption tax be imposed on the products of domestic industry, if the same or similar products or substitutes imported from abroad can not be taxed in like manner.

279. The Nation shall maintain the independence of the private institutions of social prevision and co-operation that are normally maintained without the aid of public funds, and shall contribute to their development by means of adequate legislation.

280. Money and banking shall be subject to regulation and check by the Nation.

The Nation shall, through the medium of autonomous entities, organise a banking system for the best development of its economy, and shall found a National Bank of Cuba, which shall be a bank of issue and rediscount. On establishing said bank, the Nation can require that its capital be subscribed by the banks existing in the national territory. Those which fulfil these requisites shall be represented on the Board of Directors.

#### TITLE XVIII. STATE OF EMERGENCY

281. Congress, by means of a special law, on request of the Cabinet, can declare a state of national emergency and authorise said Cabinet to exercise exceptional faculties in any case when the external safety or the internal order of the Nation are in danger or are attacked, by reason of war, catastrophe, epidemic, serious economic disturbance or other cause of a like nature.

In each case the special law shall determine the concrete matter to which the exceptional faculties are to be applied, as well as the period during which they will govern, which shall never exceed 45 days.

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## DOMINICAN REPUBLIC

### Constitution of the Dominican Republic<sup>1</sup>

*10 January 1942*

#### TITLE II. INDIVIDUAL RIGHTS

6. The following are declared to be a sacred part of the human personality:

(1) The inviolability of life. The death penalty shall not be imposed, nor any other punishment involving permanent physical injury to the individual. The

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<sup>1</sup>English translation by courtesy of the American Law Institute; for Spanish text, see *Gaceta oficial*, 10 Jan. 1942, Year LXIII, 5692 bis, p. 1, or Andrés María LAZCANO Y MAZON: *Constituciones políticas de América*, Vol. I, pp. 549-577.

law may, however, impose capital punishment upon those who, in time of war with a foreign country, are guilty of crimes against the success of the nation's armed forces, or of treason or espionage in favour of the enemy.

(2) The liberty of work, the creation of monopolies in favour of individuals being consequently prohibited. The law may prescribe, as required by the general interest, the maximum work day, days of rest and vacations, minimum wages and salaries and the manner of payment, social security, the preponderant participation of nationals in any kind of work, and, in general, all measures of State protection and assistance considered necessary for the benefit of the workers.

(3) The freedom of conscience and of religious worship, without any limitation other than due respect for public order and good customs.

(4) The freedom of instruction. Primary education shall be subject to the supervision of the State, and shall be compulsory for minors of school age, in the form established by law. In the official institutions, as well as in agricultural schools and schools of manual arts and domestic economy, such instruction shall be free.

(5) The right to express ideas without previous censorship. The law shall establish the sanctions applicable to those who violate a person's honour, the social order, or the public peace.

(6) The right to associate and to assemble for peaceful purposes.

(7) The right of property. Property, however, may be taken for duly justified reasons of public utility or social interest, and upon prior payment of a fair indemnity. In cases of public disaster, the indemnity need not precede the taking. General confiscation of property, except as a penalty to those guilty of treason or espionage in favour of the enemy in time of war with a foreign country, is prohibited.

(10) The freedom of transit, except restrictions resulting from the execution of judicially imposed penalties, or of the laws governing immigration and public health.

(11) The exclusive ownership, for the time and in the manner determined by law, of inventions and discoveries, as well as of scientific, artistic, and literary productions.

(12) The individual security. Wherefore; (a) physical compulsion for debts not arising out of fraud or violations of the criminal laws shall not be established;

.....

## TITLE V

### *Section III. The Chamber of Deputies*

22. The exclusive duties of the Chamber of Deputies are:

(2) To authorise, or otherwise, the municipalities to alienate real property and to approve, or otherwise, contracts into which they may enter involving real property or communal revenues as a guarantee.

## TITLE VI. THE CONGRESS

33. Attributes of the Congress are:

(4) To devise means for conserving national property and making it productive and for the alienation of property under the private control of the nation.

(5) To determine all measures for the preservation of ancient monuments and for the acquisition of all kinds of pre-historic and historic objects which constitute national archaeology.



- (9) To make full provision respecting immigration.
- (10) To regulate whatever appertains to the customs service.
- (14) To raise loans on the credit of the Republic through the medium of the Executive Power.
- (21) To approve or otherwise contracts submitted to it by the President of the Republic in accordance with article 49 (10).

## TITLE VIII

### *Section I. The Executive Power*

49. The President of the Republic is competent :

(10) To conclude contracts and submit them for the approval of the National Congress when they contain provisions relative to the encumbrance of national revenues, the alienation of real property or the raising of loans ; and without such approval in other cases.

(20) To prohibit when he considers it necessary the entry of foreigners into the national territory and to expel foreigners when he considers it to be in the public interest.

## TITLE XV. GENERAL PROVISIONS

90. No exemption from taxes, fiscal or municipal contributions or rates shall be recognised, and no exoneration, reduction or limitation shall be granted, for the benefit of private parties, except in virtue of a law. Nevertheless, private parties may acquire, by means of concessions authorised by law or contracts approved by the National Congress, the irrevocable right to benefit for the full duration of the concession or contract and subject to compliance with the obligations imposed thereby, from exemptions, exonerations, reductions and limitations in respect of taxes, fiscal or municipal contributions or rates, granted in the case of particular works or undertakings to those who agree to procure, with a view to the development of the national economy or any other purpose of national interest, the investment of new capital.

93. The State is for ever prohibited from issuing paper money.

96. Mineral deposits belong to the State and may only be exploited by private individuals in virtue of concessions or contracts granted under conditions determined by law.

106. The development and embellishment of the City of Ciudad Trujillo, the Capital of the Republic, is declared to be a work of high national interest. In consequence, the State will allot and apply annually for this purpose in the law of public expenditure a sum not less than the third part of the municipal budget of the District of Santo Domingo.

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## DUTCH COLONIES

### Curaçao

#### Constitution<sup>1</sup>

15 August 1936

#### CHAPTER I. CURAÇAO AND ITS INHABITANTS

4. (1) Slavery is not permitted in Curaçao.

(2) All persons within the territory of Curaçao are entitled equally to protection of person and property.

6. The rules relating to the admission and settlement of persons in Curaçao, and the rules relating to deportation, shall be issued as far as possible by public administrative regulations and otherwise by Government Order.

8. (1) No-one shall require permission in advance for the publication of thoughts and sentiments in the press.

(2) The liability of authors, publishers, printers and distributors and the guarantees requisite in the interests of public order and morals to prevent abuse of the freedom of the press shall be regulated by Government Order.

9. (1) Every person shall be entitled to submit petitions to the competent authority both in the Netherlands and in Curaçao.

(2) Petitions must be signed personally and not in the name of two or more persons, except in the case of petitions lodged by or on behalf of corporate bodies which are lawfully constituted and recognised as such; in this last mentioned case the petitions shall not deal with matters other than matters within the scope of the prescribed activities of the corporate body.

(3) Nevertheless, persons who cannot write may lodge petitions through the officials declared competent for the purpose by a Government Order.

10. The exercise of the right of association and assembly may be regulated and restricted by Government Order in the interests of public order, morals or health.

#### CHAPTER II. THE GOVERNOR

18. (1) The Governor shall not participate either directly or indirectly in, or act as surety for, any undertaking based upon a contract concluded with Curaçao or with any part thereof for gain or profit.

(2) With the exception of public securities, the Governor shall not possess any claims against Curaçao on account of debts.

(3) He shall not participate directly or indirectly in any concession or undertaking of any nature whatsoever established in Curaçao or carrying on business therein.

(4) The provisions of subsections (1) and (3) shall apply to him for five years after his retirement.

31. (1) In the event of war or revolt the Governor shall take all measures which he considers necessary in view of the emergency in the interests of the State in general and of Curaçao in particular.

<sup>1</sup>English translation by the International Labour Office; for Dutch text, see *Publicatieblad*, 1936, No. 105.

(2) In such circumstances he shall have power to declare all or part of the territory of Curaçao to be in state of war or siege and shall have power likewise to declare provisions of this Act and of all other general orders in force in the territory concerned to be inoperative; he may also suppress posts temporarily.

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35. The Governor shall have the general direction of the finances and domains of Curaçao and shall be responsible therefor in conformity with provisions to be laid down by law.

45. (1) Without prejudice to the cases specified in sections 5, 6, 39, 100 sub-section (3), and 101 sub-section (3), or any other legislative provisions, public administrative regulations may be issued to regulate the following matters:

- (a) Treaties and other agreements entered into with foreign powers and in general the rights and obligations arising out of international law;
- .....

## CHAPTER VI. JUSTICE

120. Civil law, commercial law and civil procedure, penal law and penal procedure, even with respect to the armed forces of Curaçao, the administrative procedure with respect to taxes, the profession of notary, industrial, literary and artistic copyright, and the standards of weights and measures, shall be regulated by Government Order, as far as possible in conformity with the legislation in force in the Netherlands.

121. (1) Property shall not be expropriated unless it is declared by a Government Order that expropriation is requisite in the public interest nor unless compensation has been previously paid or guaranteed.

(2) Exemptions from the above requirements shall not be permitted except in pursuance of general regulations to be issued by Government Order and subject to the proviso that the person concerned shall not in any case lose the right to compensation in full.

124. Civil death or confiscation of the property of a convicted person shall not be imposed as a penalty or as the consequence of a penalty.

## CHAPTER VII. RELIGION

143. Every person shall be absolutely free to profess his religious opinions in so far as is compatible with the protection of society and its members against violations of the penal law.

145. The Governor shall see that all religious denominations comply with the statutory regulations and obey the constituted authorities in Curaçao.

146. The adherents of the various religious confessions shall all enjoy the same civil and political rights, and shall have an equal right to all dignities, offices and employments.

## CHAPTER VIII. FINANCE

148. The monetary system shall be regulated by law.

151. (1) Taxes shall not be imposed in such a manner as to restrict free trade with the Netherlands, the Netherlands Indies or Surinam, or to give the commerce, industry or agriculture of Curaçao a preference over the commerce, industry or agriculture of the Netherlands, the Netherlands Indies or Surinam.

(2) Beacon, pilot, harbour and other similar navigation dues and the regulations respecting shipping (distant trade) shall be the same for all flags.

153. The sale or leasing and the administration of public lands and the exercise of other rights in public lands shall be regulated by Government Order.

#### CHAPTER X. EDUCATION, PUBLIC HEALTH AND PUBLIC ASSISTANCE

157. The spread of progress and civilisation and the encouragement of art and science shall be the object of constant solicitude on the part of the Governor.

158. Every person who gives satisfactory proof of ability and morality shall be free to impart education.

159. (1) In so far as funds permit, the Governor shall ensure that the primary education system brings elementary instruction within the reach even of persons without means.

(2) He shall do so by defrayal of cost on the basis of equality between private and public education.

160. Education on the above bases shall be subject to regulations to be issued by the Governor.

161. The supervision to be exercised by the authorities over public health and all matters relating to the practice of medicine, midwifery and pharmacy shall be regulated by Government Order.

162. (1) The encouragement of a sense of industry and the prevention of idleness and vagrancy amongst the indigent population shall be an object of constant solicitude on the part of the Governor.

(2) Regulations respecting the supervision of public assistance and the arrangements requisite therefor shall be laid down by Government Order.

(3) In this connection due regard shall be had to the principle that private and religious philanthropic institutions shall be given complete freedom and shall be encouraged as much as possible.

#### CHAPTER XI. NATIONAL INDUSTRY

163. (1) The Governor shall encourage all branches of national industry.

(2) Chambers of commerce and factories and agricultural committees may be established, and the operation thereof regulated, by Government Order.

164. Permission to set up banks of issue, and form credit associations and insurance companies may be given by Government Order.

165. (1) The Governor shall devote all the means at his disposal to the improvement of public communications.

(2) The supervision to be exercised by the authorities over public communications by land and by water shall be regulated by Government Order.

166. The Governor, in pursuance of regulations to be laid down by Government Order, may grant permits for mining operations and for the establishment of works and plant for undertakings of public utility.

## Surinam

### Constitution<sup>1</sup>

15 August 1936

#### CHAPTER I. SURINAM AND ITS INHABITANTS

- 4-6. *Identical with sections 4-6 of the Constitution of Curaçao, p. 334 above.*  
8-10. *Substantially identical with sections 8-10 of the Curaçao Const., p. 334 above.*

#### CHAPTER II. THE GOVERNOR

18. *Identical with section 18 of the Curaçao Const., p. 334 above.*  
31. *Identical with section 31 of the Curaçao Const., p. 334 above.*  
35. *Identical with section 35 of the Curaçao Const., p. 335 above.*  
45. *Identical with section 45 of the Curaçao Const., p. 335 above.*

#### CHAPTER VI. JUSTICE

- 120-121. *Identical with sections 120 and 121 of the Curaçao Const., p. 335 above.*  
124. *Identical with section 124 of the Curaçao Const., p. 335 above.*

#### CHAPTER VII. RELIGION

- 143-146. *Identical with sections 143-146 of the Curaçao Const., p. 335 above.*

#### CHAPTER VIII. FINANCE

148. *Identical with section 148 of the Curaçao Const., p. 335 above.*  
151. *Identical with section 151 of the Curaçao Const., p. 335 above.*  
153. *Identical with section 153 of the Curaçao Const., p. 336 above.*

#### CHAPTER X. EDUCATION, PUBLIC HEALTH AND PUBLIC ASSISTANCE

- 157-162. *Identical with sections 157-162 of the Curaçao Const., p. 336 above.*

#### CHAPTER XI. NATIONAL INDUSTRY

163. *Identical with section 163 of the Curaçao Const., p. 336 above.*  
164. (1) No institution shall carry on operations as a bank of issue in Surinam and no bank notes shall be issued in Surinam or put into circulation there otherwise than in virtue of an act, on the basis and subject to the conditions laid down in the said act.  
(2) The expression "bank of issue" shall mean any institution which is engaged exclusively or as part of its operations in the issue of bank notes or the putting of bank notes into circulation.  
165. Permission may be given by Government Order for the institution of credit associations and insurance companies.

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<sup>1</sup> English translation by the International Labour Office; for Dutch text, see *Staatsblad*, 1936, No. 909, *Gouvernementsblad van Suriname*, 1936, No. 156.

166. *Identical with section 165 of the Curaçao Const., p. 336 above.*  
 167. *Identical with section 166 of the Curaçao Const., p. 336 above.*

## ECUADOR

### Political Constitution of Ecuador<sup>1</sup>

23 December 1906

#### TITLE V. OF THE NATIONAL GUARANTEES

16. Education is free, with no restrictions other than those indicated in the respective laws; the national and municipal educational codes shall, however, be lay and secular. Primary education and that of arts and crafts are gratuitous; the former is, moreover, compulsory, but without prejudice to the right of parents to give their children such education as shall seem good to them.

Neither the State nor the municipalities shall in any form subsidise or contribute to educational systems other than those which are national or municipal.

17. Taxes shall not be imposed except by virtue of a law, and in proportion to the means of the person taxed.

18. The Republic does not recognise hereditary offices, privileges, or personal prerogatives. The foundation of hereditary estates is prohibited, as well as all kinds of entail that would hinder the free transmission of property. Consequently, no person shall hold real property in Ecuador that may not be alienated or divided.

22. Public credit is guaranteed. Consequently, the funds for the redemption of the public debt as provided by law may not be diverted from their object.

There shall not be in the Republic either paper money or debased coin; therefore any person may refuse the same, whatever may be their origin.

23. Any contract concluded by a foreigner, or by a foreign company, with the Government or with a private individual carries the express condition of the renunciation of all diplomatic claims.

#### TITLE VI. OF INDIVIDUAL AND POLITICAL GUARANTEES

26. The State guarantees to Ecuadoreans:

- (1) The inviolability of life. Capital punishment remains abolished;
- (3) Liberty of conscience in all its aspects and manifestations, in so far as they may not be contrary to morality and public order;
- (4) The right of property. No-one may be deprived of his property except by virtue of a judicial sentence or by expropriation on the ground of public utility. In the latter case the owner will be previously indemnified the value of the possessions expropriated;
- (5) Personal liberty. Conscription is prohibited, as also imprisonment for debt, except in the cases provided for by law;

<sup>1</sup> English translation from *British and Foreign State Papers*, Vol. 104, 1911, pp. 918-940; for Spanish text, see *Constitución política de la República del Ecuador*, Quito, Ecuador, 1939, *Registro oficial*, 1929, No. 138, p. 1, or Andrés María LAZCANO Y MAZON: *Constituciones políticas de América*, Vol. II, pp. 3-34.

(7) The liberty to travel through the territory of the Republic, to change their domicile, to leave the Republic and to return to it; taking with them, whether going or coming, their property. Exception is made in the case of war, when a passport will be required;

(11) . . . freedom . . . from being of intercourse for more than twenty-four hours; and from being subjected to any form of torture;

(12) Industrial freedom. All persons may enjoy the ownership of their discoveries, inventions and literary works within the terms prescribed by law; no persons shall be required to render services not imposed by law; and artisans and labourers shall be compelled in no case to work except by virtue of an agreement;

(14) Admission to public offices and employments without any conditions other than those determined by law;

(15) Liberty of thought expressed by speech or through the press. Cases of libel or slander, as well as personal insults, whether conveyed by word or by writing in the press, may be prosecuted in the form and manner prescribed by law;

(16) The right of direct petition to any authority or corporation, and the right to obtain the corresponding reply. These rights may be exercised individually or collectively, but never in the name of the people;

(17) The liberty of meeting and association, without arms, for objects not prohibited by law.

27. The confiscation of property, torture and infamous punishments are prohibited.

28. Foreigners enjoy the same civil rights as Ecuadoreans, and all the constitutional guarantees, except those specified in sections (13) and (14) of article 26, in so far as they respect the Constitution and the laws of the Republic.

## TITLE VIII. THE LEGISLATIVE POWER

### *Section IV. The Attributions of the Legislative Power Sitting as Separate Chambers*

54. The following are attributions and duties of Congress:

(3) To impose taxes and authorise the Executive Power to contract loans on the public credit; loans may not be raised without the approval of Congress;

(4) To recognise the national debt and determine the manner in which it shall be amortised and in which interest shall be paid;

(5) To regulate the administration of the national property, decree its alienation, and apply the income therefrom to objects of public utility;

(13) To decree general educational laws for the establishments of public education and instruction;

(14) To promote and encourage the progress of the sciences and the arts, and of undertakings, discoveries and improvements which it is desirable to establish in the Republic;

(18) To decree the opening and improvement of roads and canals, without preventing the local areas from opening and improving their own.

## TITLE IX. THE EXECUTIVE POWER

### *Section II. The Attributions and Duties of the Executive Power*

80. The following are attributions and duties of the Executive Power:

(14) To supervise the Department of Public Instruction and everything concerning police for order and security;

(15) To grant titles of property in the cases provided for in article 26, number 12.

83. In case of imminent danger of foreign invasion, international war, or civil disturbance involving recourse to arms, the Executive Power shall apply to Congress if in session or otherwise to the Council of State in order that, after consideration of the urgency of the matter on the basis of a report and supporting documents, it may be granted or denied, with the restrictions which may be thought appropriate, all or any of the following powers:

(3) That of decreeing that taxes shall be collected in advance, up to a limit of one year;

(5) That of diverting to the defence of the State and the preservation of public order funds designed for other purposes, with the exception of those belonging to the Departments of Public Instruction, Welfare and Railways.

#### TITLE XII. THE INTERNAL ADMINISTRATIVE SYSTEM

113. There shall be municipalities for the administration of sectional interests. The law shall determine their organisation and attributions as regards the education and instruction of the inhabitants of the locality; police and material improvements; the creation, collection, administration and investment of the municipal revenues; the encouragement of public establishments, and other matters requiring their attention.

#### TITLE XIV. SUPPLEMENTARY DISPOSITIONS

128. The public powers shall afford protection to the Indian race in order to ameliorate its condition in the social scale, and shall especially take measures the most efficacious and conducive to put an end to abuses of contract.

### Constitution of the Republic of Ecuador<sup>1</sup>

26 March 1929

*(This Constitution was abrogated by executive decree on 27 September 1935 and that of 1906 was provisionally restored.)*

#### PART I

#### CHAPTER III. THE LEGISLATIVE POWER

##### *Section II. The Chamber of the Senate*

33. The Chamber of the Senate is composed of:

- (1) One senator for each of the interior and coast Provinces;
- (2) One senator elected jointly by the eastern Provinces;
- (3) Fifteen senators with functional representation as follows:

<sup>1</sup> English translation from *British and Foreign State Papers*, Vol. 130, 1929, Part I, pp. 583-619; for Spanish text, see *Registro oficial*, No. 138, 26 Mar. 1929, or Andrés María LAZCANO y MAZON: *Constituciones políticas de América*, Vol. II, pp. 3-34.



One representative for the universities;  
 One for the secondary and special teachers;  
 Two for the primary and normal teachers;  
 One for the press and scientific academies and societies;  
 Two for agriculture;  
 Two for commerce;  
 One for industry;  
 Two for Labour;  
 Two for the peasants; and  
 One for the military institution.

(4) One senator for the protection and defence of the Indian race.

#### *Section IV. The Legislative Power Divided into Chambers*

48. Its attributes and duties are:

(5) To take cognisance of contracts for loans, securities, etc., which engage the national credit, which shall not be enforced without the approval of Congress;

(6) To acknowledge the public debt and determine the manner of its conversion, amortisation and payment of interest thereon;

(7) To decide upon the administration of the property of the State and to authorise its alienation;

(15) To issue general educational laws for the institutions of public education;

(16) To promote the development of science and art, and encourage discoveries, enterprises and improvements beneficial to the Republic;

(19) To decree the opening of roads and irrigation canals of national character.

### CHAPTER VI. THE EXECUTIVE POWER

#### *Section II. The Attributes and Duties of the Executive Power*

86. In case of imminent external invasion, international war or serious internal commotion, the Executive shall apply to Congress, if in session, or otherwise to the Council of State, so that, in view of the urgency and in conformity with the report and documents submitted in justification, there may be granted or denied, with the restrictions deemed convenient, all or part of the following powers:

(3) To negotiate loans;

(4) To assign to the defence of the State and to the maintenance of public order, the budgetary appropriations, although they may be earmarked for other purposes, with the exception of those pertaining to the service of the public debt and to the branches of public education, health, public assistance and railways. These restrictions shall not be applicable in the event of international war.

### CHAPTER VII. THE NATIONAL BUDGET

104. It is prohibited to assign the proceeds of loans to administrative expenditure of a permanent character.

### CHAPTER XI. THE INTERNAL ADMINISTRATIVE ORGANISATION

144. The law respecting the administration of the Provinces of the eastern region shall determine, as far as possible, the manner of making effective the

constitutional guarantees for its indigenous inhabitants. Should they have fixed establishments or be grouped in villages, their property shall be specially respected.

## PART II

### CHAPTER XIII. THE FUNDAMENTAL GUARANTEES

151. The Constitution guarantees to the inhabitants of Ecuador, principally, the following rights:

(1) The inviolability of life and its defence. No one shall suffer the death penalty or torture. Prisons shall only be used for the safe custody of those prosecuted and convicted, and to bring about their social rehabilitation.

(2) Equality before the law. In Ecuador there shall be no slavery or personal compulsion under pretext of servitude or peonage.

.....

No prerogatives may be granted or obligations imposed which place some individuals in a better or worse condition than others.

.....

(4) Personal liberty and security. Recruiting not effected in accordance with the military laws, as well as imprisonment for debts arising from merely civil obligations, is prohibited.

Any contract, pact or agreement involving the loss of the individual's liberty, or the renunciation of his inalienable rights, shall be null and void.

(9) Liberty to sojourn in any locality, to travel through the territory of the Republic, to change abode, to absent oneself from Ecuador and to return thereto, taking away or bringing back one's property, with such exceptions and limitations as are determined by law.

(12) Liberty of thought, spoken, written, printed, graphic or otherwise. Injury and calumny, in any form whatsoever, and any statement of a notoriously immoral character, shall be subject to legal responsibility.

(13) Liberty of conscience, in all forms and manifestations, provided they are not contrary to public morality or order.

(14) The right of property, subject to the restrictions required by social needs and progress. In this sense, it is for the law to determine obligations, limitations and services in the general interests of the State, of national economic development and of public welfare and health.

Towns and villages lacking land or water, or only disposing of these in insufficient quantities to satisfy primordial domestic and hygienic necessities, shall have the right to be supplied therewith from adjoining properties, under arrangements harmonising the mutual interests of the village and the proprietors.

Deprivation of all or part of property shall only be effected by virtue of judicial sentence or expropriation, with due indemnification on the terms and by the procedure established by law.

Ownership of all minerals or substances which, in veins, layers or beds, constitute deposits of a nature distinct from the composition of the soil appertains to the State.

In the case of the preceding paragraph, the ownership of the State is inalienable and imprescriptible, and only the usufruct thereof may be granted to private individuals and to civil or commercial companies, under the terms fixed by the pertinent laws and with the condition that regular work be set on foot for the exploitation of the minerals concerned.

The State shall protect the development of small properties.

All persons shall enjoy ownership of their discoveries, inventions and scientific, literary and artistic works, in the terms prescribed by law.

The confiscation of property is prohibited.

National or foreign enterprises or companies which have acquired or may acquire concessions in the territory of the Republic may not exploit them except within the limitations prescribed by law and those which in each case are laid down in the respective contracts. This provision refers specially to minerals and other substances of value existing in the subsoil of the country.

Within a distance of 50 kilometres from the frontiers foreigners may not acquire or possess by any title, directly or indirectly, individually or collectively, any lands, waters, mines and combustibles, under penalty of forfeiting to the State the property acquired, except in the case of special authorisation conferred by law.

(15) Liberty of commerce and industry, in accordance with the laws.

Monopolies not expressly authorised by a general or special law are prohibited.

The State alone may by law establish monopolies in the exclusive national interest; but it may not transfer them to private individuals or to national or foreign companies.

In no case may the exportation of national products be prohibited; it shall not be subjected to any other restrictions than the payment of the duties determined by the customs tariff, and to the conditions fixed by law to safeguard the reputation of the said products.

(16) Liberty to practise professions. The law shall determine those for which degrees are required for the practice thereof, the qualifications necessary and the authorities who may grant them.

(17) Liberty to contract. Usury is prohibited, and any contracts containing it in any form shall be null. The State will favour the establishment and development of official lending establishments and savings banks.

(18) Protection and liberty of labour.

Services not imposed by law may not be demanded from anyone. Artisans and labourers shall in no case be obliged to work except by virtue of a contract.

The State shall particularly protect the workman and peasant, and shall legislate in such a way as to attain the realisation of the principles of justice in respect of economic life, ensuring for all a minimum of welfare compatible with human dignity.

The law shall fix the maximum daily working hours and the manner of determining minimum wages, especially in relation to the cost of living and to the conditions and necessities of the different regions of the country. It shall also fix the compulsory weekly rest and establish social insurance.

The law shall regulate the conditions of health and safety to which industrial establishments shall conform.

Indemnification for working accidents is compulsory, and shall be enforced in the manner prescribed by law.

A minimum salary shall be free from attachment, indemnification or discount.

Everything concerning the work of women and children shall be expressly regulated by law.

(19) Protection of matrimony, the family and family property.

The law shall regulate the protection of maternity and infancy. Each year the budget shall contain a special item for the protection of children in the most efficient manner.

Illegitimate children have also the right to be brought up and educated by the parents, and to inherit from them to the extent provided for by law.

The right of investigating paternity, in the manner and in the cases determined by law, is established.

In the absence of the parents, the State shall undertake to provide for illegitimate children adequate conditions for their better physical, intellectual and social development.

(20) The right to make a will and to inherit in accordance with the laws.

(21) Liberty of education, teaching and propaganda.

Education is free, with no other restrictions than those specified by law; but official education and that maintained by the municipalities are essentially secular and lay.

Primary education and that in the arts and crafts, of an official character, are gratuitous, and consequently not even enrolment fees may be charged. Furthermore, the former is compulsory, without prejudice to parents' right to give their children the education they may deem suitable.

Neither the State nor the municipalities shall subsidise or assist in any form whatever, directly or indirectly, other instruction than official or municipal education.

Private education may only be given in conformity with departmental laws and regulations and under official supervision.

(22) Public assistance, sanitation and health, specially as regards workers and peasants, for the amelioration and benefit of whose conditions the State shall undertake the construction of inexpensive houses, directly or by means of contracts.

Preferential attention shall be given to the sanitation of towns and provision to them of drinking water.

(23) Liberty of assembly without arms for purposes not prohibited by law.

(24) Liberty of association and union.

The State shall encourage and develop social co-operation.

Both workers and employers as well as contractors shall have the right of association, by the formation of professional syndicates or associations, to safeguard their respective interests.

Courts of conciliation and arbitration shall be constituted for the settlement of capital and labour conflicts.

The law shall regulate everything concerning coalitions, strikes and lock-outs.

(25) Distribution of taxes in proportion to the capacity of the taxpayer. No one shall be obliged to pay them save by virtue of a law and in the form therein provided.

(26) The right of petition to the competent authorities, who may not reject such petition without reasonable cause. This right may be exercised individually or collectively, but never in the name of the people.

(27) The right of accusing or denouncing before Congress, the Executive Power or any other competent authority, infringements of the Constitution and the laws.

(29) Admission to public functions and offices, without any other conditions than those determined by law.

The holding of two or more public offices by one and the same person is incompatible. Exception is made of the posts of Councillors of State, municipal councillors and of such offices as are connected with one another.

(30) Public credit. Assignments earmarked by law towards the service of the public debt may not be diverted to other purposes, nor may there be in the Republic paper money issued by the Government or metallic or fiduciary currency of compulsory acceptance in sums exceeding the amounts fixed by law.

152. Foreigners are obliged to respect the Constitution and the laws. They enjoy the same civil rights as Ecuadoreans and the same constitutional guarantees, excepting those specified under Nos. (28) and (29) of the preceding article. They may, however, occupy consular posts, and, under contract, technical offices, in accordance with law.

Such posts as involve the exercise of jurisdiction shall not be considered technical offices.

The express authorisation of Congress shall be necessary for entering into contracts with foreign missions.

153. All contracts which a foreigner or foreign company may conclude with

the Government, national corporations or a private individual shall involve the implicit condition of the renunciation of any diplomatic claim.

In no case may subjection to a foreign jurisdiction be stipulated in contracts concluded by foreigners with the Government or with corporations of a public character in Ecuador.

155. No other institutions of public law are recognised than the Government, the Provincial Councils, the municipalities and the departments maintained by the State.

156. Games of chance are prohibited. The law shall determine such.

157. Actions of a private character not injurious to public morals, health or order or to the rights of third parties, shall, in all cases, be beyond the power of the State's authority.

160. The State shall guarantee and favour the development of private charity, and may exempt it from payment of all taxes, in accordance with the law.

### PART III

#### CHAPTER XV. GENERAL PROVISIONS

167. The Public Powers must render protection to the Indian race with a view to their improvement in social life, and more especially as regards their education and economic conditions.

168. The State is under obligation to accord woman preferential attention, tending towards her economic freedom. It shall, consequently, attend in a special manner to her technical education, thus placing her, amongst other possibilities, in a position to take active part in public administration.

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## FRENCH COLONIES

### French Guiana

*For the constitutional arrangements of French Guiana, see Arthur GIRAULT: Principes de Colonisation et de Législation Coloniale, 5th edition, Vol. II, 1929, pp. 102-103.*

### Guadeloupe

*For the constitutional arrangements of Guadeloupe, see Arthur GIRAULT: Principes de Colonisation et de Législation Coloniale, 5th edition, Vol. II, 1929, pp. 76-102.*

## Martinique

*For the constitutional arrangements of Martinique, see Arthur GIRAULT: Principes de Colonisation et de Législation Coloniale, 5th edition, Vol. II, 1929, pp. 76-102.*

## St. Pierre et Miquelon

*For the constitutional arrangements of St. Pierre et Miquelon, see Arthur GIRAULT: Principes de Colonisation et de Législation Coloniale, 5th edition, Vol. II, 1929 pp. 103-105.*

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## GREENLAND

### Danish Law on the Administration of Greenland<sup>1</sup>

18 April 1925

#### B. THE COUNTRY'S ADMINISTRATION

##### (a) ADMINISTRATIVE ORGANS IN DENMARK

3. With the exception of affairs which concern the ecclesiastical and educational authorities, which are dealt with by the Ministry of Ecclesiastical Affairs, all matters concerning the administration of Greenland are dealt with by the Ministry of the Interior.<sup>2</sup> Educational schemes for the Greenland scholastic system are submitted to the Bishop and the Ministry of Education before approval.

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<sup>1</sup> English translation from *British and Foreign State Papers*, Vol. 122, 1925, Part II, pp. 364-378; for Danish text, see *Dansk Lovsamling*, 1925, p. 163.

The legal status of Greenland was considered by the Permanent Court of International Justice in proceedings between Denmark and Norway relating to the legality and validity of a Norwegian declaration of occupation of 10 July 1931. The Court held, on 5 April 1933, that the declaration of occupation was invalid. See Publications of the Permanent Court of International Justice, Series A/B, Judgments, Orders and Advisory Opinions, 1933, Fascicule No. 53, Legal Status of Eastern Greenland, pp. 22-147.

<sup>2</sup> As the result of Notification 102 issued by the Prime Minister's Office on 30 Apr. 1929, and Notification 208 issued on 29 May 1933, the powers of the Ministry of the Interior were transferred first to the Ministry of Shipping and Fisheries and subsequently to the Ministry of State (Prime Minister's Office).

The necessary administrative expenses will be appropriated in the annual finance law (budget), in which there will likewise be included an estimate of the annual revenue.

Deficits will be borne by the national exchequer, and will be entered in a separate account in the annual profit and loss account of the Greenland Administration. So far as there is any deficit on the books for the previous year, profits will be applied for the liquidation of the same, and the amount will be credited to the national exchequer.

Should there be any profits which are not utilised for the above purpose, one half shall be paid direct to the people of Greenland for distribution in accordance with regulations laid down by the Minister of the Interior after negotiation with the Greenland Council. The other half shall be paid into the exchequer and credited to the aforementioned special account to cover subsequent contingent deficits.

If the sums entered on the special account as working profits should attain the same proportions as the capital for the administration of Greenland entered in accordance with the law in the annual profit and loss account, it shall be decided in the finance law how any balance will be disposed of.

4. Matters within the competence of the Ministries of the Interior and of Ecclesiastical Affairs will be under the direction of a Director having his office in Copenhagen, who shall be directly subordinate to the Ministries.

The Director shall submit directly to the Ministry concerned the matters referred to in so far as he has not authority to deal with them himself. The Ministry concerned shall decide what matters shall thus be disposed of direct by the Director.

The Director is the immediate superior of the Sheriffs and of the deans and school teachers appointed in Greenland in all economic matters which concern the ecclesiastical and scholastic administration and are borne on the Greenland budget. Further regulations in this respect shall be made by the Minister of Public Worship.

The Director is nominated by the King. Recommendations for filling the appointment are put forward by the Minister of the Interior after consultation with the Minister of Public Worship.

The Director must go to Greenland on a visit of inspection at least every third year.

5. There shall be placed under the Director, after consultation between the Minister of the Interior and the Minister of Public Worship a Trade Director, who shall be responsible for the sale of articles sent from Greenland and for the purchase of wares which it is decided to send to Greenland; he shall also advise the Director in matters connected with Greenland's commercial relations and shipping, and shall, in accordance with the detailed instructions of the Minister of the Interior, conduct its business affairs in Copenhagen.

After four years service the Trade Director may be given a royal warrant of appointment.

6. In addition there shall be placed under the Director an Inspector of Shipping, who may be one of the ship's captains of the Administration. The Shipping Inspector will be responsible for everything connected with sailings to Greenland and especially with the supervision of the ships belonging to the Administration.

Advisors may be engaged for the health administration, for Greenland's industry, and for technical matters. Expenditure thus incurred shall be voted in the annual budget.

7. The Riksdag shall appoint a Greenland Committee of 8 members, chosen according to the rules for the election of State auditors. . .

The Committee shall report on all matters affecting the general situation in Greenland, including modifications in the regulations in force concerning access to the country and the trade monopoly.

The responsible Ministers shall make a joint report to the Committee, before

the end of the month of January in each year, upon conditions in Greenland in the preceding year, the sailings to and from the country and the activities of the Greenland's Administration in this country. The Committee may further request information upon all questions affecting Greenland's Administration or upon all other matters affecting the well-being of the population of Greenland.

The draft of the budget, ordinances and ministerial decrees of similar character may be submitted by the Ministers to the Committee for its information.

8. Superintendence in ecclesiastical matters devolves on the Bishop of the Copenhagen diocese.

The Bishop shall have opportunity to make himself acquainted with all such matters as affect the Greenland church or school system. Such matters shall be submitted to him by the lector.

9. The King nominates for a period of 6 years a lector in the Greenlandic tongue.

The lector shall preside over education in the Greenlandic school (Seminarium).

The lector is similarly expected to give help as an expert in Greenlandic church and school matters to the Minister, the Bishop and the Director. All reports from Greenland concerning such matters shall therefore be submitted to him, and his opinion shall be taken concerning such matters.

## (b) ADMINISTRATIVE ORGANS IN GREENLAND

### *I. Administration*

#### *Sheriffs.*

10. . . . .

The Sheriff, as the representative of the Danish Government in Greenland, shall be regarded as the supreme authority, and may, in emergencies, take such measures as the general welfare calls for.

The Sheriff is the supreme police authority and supervisory authority for the public health authorities. . . .

The Sheriff shall see that commerce in Greenland is conducted in a manner conducive to the prosperous development of the people's economic and industrial condition.

Further details as to the Sheriff's commercial activities shall be decided by the Minister of the Interior.

#### *Parochial Councils.*

12. The Parochial Council, under the superintendence of the Sheriff, shall administer parochial funds on its own responsibility. These shall be applied partly for the assistance of persons who are no longer able to support themselves and partly, for the promotion of objects for the public welfare of residents in the parish, including arrangements for the education of young persons in practical industry, and for medical assistance to the sick. Any surplus shall be divided among the industrial population in the parish according to the rules in force at the time.

16. The Provincial Council shall assist in the settling of all legal provisions which affect the whole Greenlandic community, and shall express its opinion with regard to all draft laws and ordinances concerning public measures affecting the Province or the whole country.

The Provincial Council has a voice in the application of Greenlandic public funds in accordance with the regulations which are drawn up in detail, and can



make representations with regard to the undertaking of enterprises on account of Greenlandic public funds. . .

## *II. Health Administration*

20. District doctors in Greenland shall be nominated by the King and appointed by arrangement of the Minister of the Interior.

The Minister of the Interior shall appoint from among the district doctors in each of the Provinces of South and North Greenland a zone doctor. This appointment may, however, by constitution, be filled by the Sheriff.

The zone doctor is the Sheriff's consultative authority in medical matters, and he may, in exceptional circumstances, be sent on official journeys to other medical districts within the Province.

Further regulations as regards the activities of both zone and district doctors shall be settled by the Minister of the Interior.

The zone doctor shall receive suitable remuneration for the work assigned to him.

Matters which affect public health, including the appointment of doctors, shall be submitted to the health administration for observation.

## *III. Commerce*

21. All commercial activity in Greenland shall have as its object the improvement of the people's economic condition, and is reserved to the Danish State under the authority of the Ministry of the Interior. There shall, however, be possibility for free trading among the natives of Greenland.

The colony managers shall control the conduct of business in their district in accordance with further instructions from the Minister of the Interior and under the Sheriff's supervision.

They shall be appointed by the Minister's decision.

## *IV. Church and School Administration*

### *Primary Schools.*

24. The primary schools in every clerical district are under the supervision of the vicar, assisted by the curates and senior catechists in the clerical district.

The District Council will act as school board in accordance with further regulations laid down by the Minister.

25. It is obligatory for every healthy child who has attained the age of 7 years, whether his parents are Danish or Greenlandic, to attend school unless the parents arrange for other adequate education, which must be subject to school inspection. Obligatory school attendance ceases when the child has attained its 14th year.

Further regulations for school attendance will be laid down by the Minister after discussion with the Provincial Councils.

26. Teaching in ordinary primary schools will be undertaken either by specially trained teachers or by senior catechists and catechists who will be appointed to the requisite number according to grants made in the yearly finance law and whose distribution among the clerical districts will be determined by the Minister.

In communities where no catechist is to be found, instruction can be temporarily entrusted to native Greenlanders who are appointed by the vicar or senior catechist and who will act as teachers (male or female).

The Minister will determine the further regulations for the filling up of schools, plan of education, etc. Among the subjects always taught are religion, training in reading and writing, both in the Danish and Greenlandic languages, arithmetic, orthography, as well as elementary history and geography. Should there be no Greenlander among the teachers capable of teaching Danish, the priest concerned shall be obliged to take over this subject. Should conditions render it desirable, the parson may exempt certain pupils from taking Danish.

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The chief supervision of the Greenland primary schools is carried out by a school inspector who, besides having passed the examination in the Greenlandic languages ordered in article 23, complies with the conditions for the appointment of a school inspector in Denmark.

### *Secondary Schools.*

27. Where suitable teachers are to be found, up to 4 secondary schools may be established, 2 in South Greenland and 2 in North Greenland, for the further teaching of young Greenlanders.

Teaching shall be undertaken by a higher teacher educated in Denmark, with the necessary assistance of catechists. To obtain such a position the person concerned must have obtained a leaving certificate in the Greenlandic language at the Greenland Seminary in Copenhagen.

The supervision of schools is carried out by the Sheriff and dean with a school inspector as expert in school matters.

Up to 20 pupils can be taken at each school for a two years' course. They will be instructed in the subjects which are taught in the superior classes of the high school.

Pupils will live at school. The necessary grant for the working of the school shall be voted in the yearly finance law.

The system of instruction as well as further regulations as to the school's organisation shall be determined by the Minister of Public Worship.

The existing catechist schools will be maintained until the secondary schools are in operation. The time appointed for their discontinuance will be fixed by the Minister.

### *High School and Seminary at Godthaab.*

28. The high school and seminary at Godthaab shall be conducted by a principal, with the assistance of 2 Danish teachers, appointed by the Minister; in addition the necessary Greenland teachers will be appointed. The supervision will be carried out by the Sheriff, dean and school inspector.

The principal shall have the same qualifications as are required for the position of principal at a Danish State seminary. Before being appointed he, as well as other Danish teachers in Greenland, must pass an examination in the Greenlandic language at the Greenland Seminary at Copenhagen.

29. The high school will receive every second year up to 25 pupils and is divided into 2 two-yearly classes, upper class (secondary) and seminary class (ages 16-17). A leaving examination from the secondary school is compulsory for admission to a high school.

In the upper class the Danish language, the Greenlandic language, arithmetic, writing, history of the world, natural history, geography, hygiene, gymnastics, the Greenlandic industries, trades and book-keeping shall be taught.

In the seminary class the same subjects will be taught with the exception of the two last named, in place of which there will be taught preparatory teaching in seminary subjects.

30. Seminary teaching has in view the future position of pupils as teachers or parsons. Among the subjects taught, special stress is laid on the study of Christianity, instruction in the practical management of a school, the Danish and Greenlandic languages, and everything in the subject which has special significance in the work for which the pupils are preparing.

31. The further management of the high school and seminary shall be arranged by Royal Ordinance.

#### *Further Training in Denmark.*

32. For pupils leaving the seminary after passing the examination, opportunities will be given for further training in Denmark, to the extent which the Minister of Public Worship considers necessary, in order to fill positions in Greenland.

.....

33. After obtaining a leaving certificate from the high school, Greenlanders who intend to enter the administrative or commercial service may be nominated by the Sheriff for further training in Denmark with the object of acquiring the same knowledge as is required of a Dane as a condition of service in Greenland, and they have this prior right to the situations in question.

Further provisions regarding this training shall be laid down by the Minister of the Interior.

34. Greenlanders who, in accordance with articles 32 and 33, proceed to Denmark to complete their training, shall have their passage paid and all that is necessary for their stay according to the regulations of the Minister concerned. The funds necessary will be voted in the yearly finance law.

#### *V. Public Funds*

36. On behalf of the Greenlandic population the Royal Greenland Trading Company will make a yearly payment to Greenland public funds, the amount of which is to be fixed at a fifth part of the value of monopolised Greenlandic products in each parish destined to be sent to Denmark during each financial year. This sum shall be calculated at the price index figure obtaining at each period.

The parochial funds will receive 50 per cent. of this sum; the rest will be divided thus: 25 per cent. to the District fund, 15 per cent. to the Provincial fund, and 10 per cent. to the common fund.

37. Besides the sum dealt with in article 36, the administrative, commercial, church and school authorities will pay a yearly tax of 2 per cent. on the collective money salaries of all Danish and Greenlandic officials employed by these institutions. This tax will be divided among public funds according to the regulations laid down in article 36 so far as one-half is concerned. The other half falls to the Greenland common fund.

38. Monies belonging to Greenland public funds will yield 4 per cent. per annum interest in accordance with further regulations to be made by royal ordinance. The amount necessary to provide this interest will be voted in the yearly finance law.

39. If, in special cases, a further grant to Greenland public funds is required, this can be voted in the yearly finance law.

## GUATEMALA

### Constitution of the Republic of Guatemala<sup>1</sup>

*11 December 1879, as Amended to 11 July 1935*

#### TITLE I. THE NATION AND ITS INHABITANTS

13. Foreigners, from the moment of their arrival in the territory of the Republic, are strictly obliged to respect the authorities and observe the laws and acquire the right to be protected by them.

14. Neither Guatemalans nor foreigners may in any case claim any compensation from the Government for damage or prejudice to their persons or property caused by factions.

15. Foreigners shall be obliged to observe the police regulations and to pay the local taxes and the contributions levied in respect of commerce, industry, a profession, property or the possession of goods, and those established on the same basis in the future, whether they increase or decrease those previously existing.

#### TITLE II. CONSTITUTIONAL GUARANTEES

16. The authorities of the Republic are established to protect the inhabitants in the enjoyment of their rights, which are, liberty, equality, and security of the person, of honour, and of property.

The social interest prevails over the private interest.

It is a function of the State to preserve and improve the general conditions of existence and well-being of the Nation, maintaining the public health of the country and endeavouring to raise the level of culture and integrity of its inhabitants, to increase public and private wealth, to promote credit and social welfare, and co-operation between capital and labour.

.....

18. Primary education is compulsory. Primary education supported by the Nation is free, and all education given by the State shall be secular.

19. All persons are free to enter, remain in, and depart from the territory of the Republic, except in the cases specified by law.

20. Industry is free. The author or inventor shall enjoy exclusive ownership of his work or invention for a period not to exceed fifteen years. Literary and artistic property is perpetual. No one may be prevented from engaging in any lawful occupation he may wish to choose. Vagrancy is punishable. The law shall adopt the necessary measures to stimulate work and make it more effective, by organising it adequately and establishing the special protection which shall be given to labourers and workers, in order to provide for the improvement of their physical, moral, and intellectual condition, and for the increase of production.

The freedom of industry and of labour has no other limitations than the power of the State to tax and control certain kinds and to reserve for itself the

<sup>1</sup>English translation by courtesy of the American Law Institute; for Spanish text, see (1935 amendment) *Diário de Centro América*, Vol. XIV, 1935, p. 85, or Andrés María LAZCANO y MAZON: *Constituciones políticas de América*, Vol. II, pp. 55-83.

right to operate certain industries for the purpose of producing revenue for the Treasury, ensuring the public services and the defence and the credit of the Nation; however, the exportation of agricultural and manufactured goods and live stock produced by the national industry may not be prohibited.

Limitations may also be imposed upon professions requiring a licence, which cannot be practiced without such licence and without complying with the formalities required by law.

The ownership of hydrocarbon deposits in general, their compounds and derivatives, which is vested in the Nation, is inalienable and imprescriptible. For the exploitation of such deposits, contracts may be entered into for a term not exceeding fifty years.

For the establishment of public services of great utility, which require the investment of considerable capital, the State may enter into contracts and grant concessions in such a case, for a term not exceeding that provided in the preceding paragraph.

The Executive may only grant concessions for a term not greater than ten years to those who introduce or establish new industries in the Republic; but this shall not have the effect of prohibiting analogous or similar industries.

Monopolies and privileges are prohibited.

21. All persons have the power to freely dispose of their property, provided that in so doing they do not violate the law.

Any entailment of property, however, or any creation of estates in mortmain, is prohibited, except only in those cases where they are in favour of charitable institutions.

22. The inhabitants of the Republic have the right to address petitions to the authorities, who must act upon them without delay, in conformity with the law, and communicate the decision to the interested parties.

The armed forces shall not deliberate or exercise the rights of petition and suffrage.

23. The inhabitants of the Republic also have free access to the courts of the country for the purpose of bringing their actions in the manner prescribed by law. Foreigners shall not resort to diplomatic action except in cases of denial of justice. Final decisions adverse to the claimant shall not be understood as denials of justice.

24. The practice of all religions, without preference for any particular one, is guaranteed within the churches; but this freedom shall not be extended to the performance of subversive acts or practices incompatible with public peace and order, nor shall it give the right to oppose the performance of civil and political obligations.

25. The right to associate and to assemble peacefully without arms is guaranteed. The establishment of convents and all kinds of monastic institutions or associations is forbidden. Every association which knowingly attacks public morals or attempts to overthrow the institutions by violent or unlawful means is also prohibited.

26. The free expression of ideas, orally, in writing, through the press, or by any other method, without previous censorship, is guaranteed. Anyone abusing this right shall be responsible before the law. A jury shall take cognisance of all offences committed through the press. Those occupying public office shall render such reports and produce such documents as are demanded from them in trials involving the press when public officials or employees appear as complainants, except in trials concerning diplomatic affairs or pending military operations.

Publications which are defamatory or damaging to a foreign nation, or its Government or accredited diplomatic representatives in the country, shall be judged according to the rules of reciprocity, both as to proof and procedure. The rules of the Penal Code of Guatemala shall govern the penalty to be imposed.

Printing presses and their equipment shall not be seized or confiscated, nor

their operation stopped or interrupted for any crime or offence committed by the press.

Further provisions in connection with this right shall be established by law.

27. All the inhabitants of the Republic are free to give or receive whatever instruction they prefer, in establishments not supported with funds of the Government. Educational institutions may not be established without governmental authorisation. The State has the right to supervise all scholastic activities.

28. Property is inviolable and shall not be subject to confiscation. Its condemnation may be ordered only for reasons of public utility and necessity, legally proved; but the owner shall receive the just value in cash before the property is taken. In case of war the indemnity need not be previous.

Property shall not be occupied or seized under any circumstances for political offences.

Large landed estates whose yield is not adequate in proportion to their area and condition shall be subject to a special system of taxation. A law shall make the necessary provisions on this matter.

The artistic and historical wealth of the country is the cultural treasure of the Nation, whoever the owner may be, and its protection and preservation is an obligation of the State.

Only Guatemalan citizens as defined in article 5 of this Constitution may own real property and have real rights in it within a zone fifteen kilometers wide along the borders.

29. Services not to be rendered gratuitously under a law or a judicial decision founded on law, shall be justly remunerated.

.....

Minors under fifteen years of age may only be confined in the places especially provided for that purpose. Special legislation on minors shall make the necessary provisions with reference to this matter.

Imprisonment for debt is absolutely prohibited.

.....

32. No person may be kept in solitary confinement after being examined. After the examination the prisoner shall have the right to obtain counsel.

In no case shall the prisoner or party detained be subject to torment, torture, illegal demands, vexation, or coercion of any character, or to any unnecessary restrictions or hardships to ensure his safekeeping or to maintain order in the prison.

### TITLE III. THE LEGISLATIVE POWER

#### *Section II. Attributions of the Legislative Power*

54. The following are also attributions of the Legislative Power and limitations to which it is subject:

(6) To contract, convert and consolidate the public debt; to this effect, the Assembly, in each case, shall authorise the Executive in order that it may negotiate internal or foreign loans, or in order that it may carry through operations of consolidation or conversion on bases previously approved.

The decree shall indicate the amount of the operation to be effected, its type or class, its object, the maximum rate of interest, any premium on repayment, the price of the bonds, and any other conditions granted.

To guarantee the payment in whole or in part of any public debt with the revenues of the Nation, it is necessary that the Assembly should so decree

indicating the revenue set apart for the purpose and the proportion in which they are set apart. For the approval or authorisation of any of the operations mentioned in this paragraph the favourable vote of two-thirds of the total of the Deputies composing the Assembly is necessary;

(12) To approve or disapprove explicitly at its sessions immediately following the concessions granted and contracts concluded by the Executive in accordance with article 20 of the Constitution. For approval an absolute majority of the total number of Deputies composing the Assembly is required;

(16) To authorise the Executive to conclude contracts which involve expenditure not provided for in the budget or which do not correspond to its own administrative functions. In the first case the funds from which the expenditure is to be met should be indicated. This authorisation must be decreed by two-thirds of the total number of Deputies composing the Assembly;

(17) To approve or disapprove by two-thirds of the total number of the Deputies composing the Assembly contracts concluded by the Executive in exercise of the authorisation granted in conformity with clauses 6 and 16 of this article. Such contracts shall not enter into force without the previous approval of the Assembly.

#### TITLE IV. THE EXECUTIVE POWER

##### *Its Organisation, Duties and Attributions, and the Limitations to which it is Subject*

77. The following are duties and attributions of the Executive Power:

(7) To direct, develop and intensify public education; combat illiteracy and procure the diffusion and improvement of agricultural and industrial education and of technical education generally. Public education shall be under the control of the State; the National University shall be organised by the Legislative Assembly, and the Executive shall have the supreme right of inspection over it as well as over schools and teaching establishments even when not maintained with national funds.

(8) To administer in conformity with the law the national finances which include

.....

The revenues, receipts and profits produced by the national properties, the industries and agricultural establishments exploited by the State, contracts, fines and sums paid as compensation.

(25) To maintain public health and improve the hygienic conditions of the country and its inhabitants, with the amplitude and efficiency which necessity demands and in accordance with the law.

(26) To lay down the measures and provisions which within the limits of the law are within its power in order to promote the full development of agriculture as the essential basis of the riches of the nation.

79. The Executive Power shall have a Council of State composed of seven members: four named by the President of the Republic and three elected by the Assembly by an absolute majority.

82. The Council of the State shall have the following attributions:

(1) To give its opinion on the contracts, concessions and other transactions which, in accordance with the Constitution, require for their validity the approval of the Assembly.

## HAITI

### Constitution of the Republic of Haiti<sup>1</sup>

8 August 1939

The People of Haiti

Proclaim the present Constitution with a view to strengthening the authority of the State, ensuring the predominance of the general interest over private interests, and guaranteeing the public peace by the development of social progress and the well-being of present and future generations.

#### TITLE II. CIVIL RIGHTS

6. All Haitians are equal before the law. They are equally eligible for civil and military employment under the conditions established by law.

However, with respect to the exercise of civil rights, certain differences may be established between native Haitians and Haitians by naturalisation or option and their descendants of the first generation.

7. The right of property is guaranteed to citizens. The expropriation of real property for reasons of necessity and public utility cannot be made except by prior payment to the rightful person, or deposit to his order, of a just compensation. But property carries with it also certain obligations. Its use must be in the general interest. The owner of real property, as a member of the community, has the duty of cultivating and exploiting the soil. This obligation is sanctioned by the law.

8. The right to own real property is granted to foreigners residing in Haiti and to companies organised by foreigners solely to meet their needs while in the country, and for their agricultural, commercial, and industrial enterprises, or for their educational institutions, legally established. Within the period of one year after the foreigner has ceased to reside in the country or after the operations of the company have ceased, this right shall terminate, in accordance with the law regulating the transmission and liquidation of property.

9. All kinds of worship are free. Everyone has the right to profess and practice his religion, provided the public order is not disturbed thereby.

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10. Everyone has the right to express his opinions on any subject.

Abuses of this right are defined and punished by law.

11. There is freedom of instruction. Such freedom is exercised under the control and supervision of the State in accordance with law.

Primary instruction, up to and including secondary instruction, is free, without prejudice to the conditions of admission established by law.

The institutions of higher learning of the State are open to young people who satisfy the conditions prescribed by the law and the regulations.

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<sup>1</sup> English translation by courtesy of the American Law Institute; for French text, see *Constitution de la République d'Haiti*, 1939.



## TITLE VI. THE EXECUTIVE POWER

*The Attributions and Prerogatives of the President of the Republic*

37. At the opening of each ordinary session the President of the Republic, either in person or by a message, informs the Legislative Body of the measures taken to assure the national economy, to improve the road system, public health and social assistance, and to combat illiteracy among the rural masses, and gives an account of the results obtained during the year and the measures which should be taken for the general well-being.

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HONDURASConstitution of the Republic of Honduras<sup>1</sup>

28 March 1936

## TITLE II. NATIONALITY AND SOVEREIGNTY

*Chapter II. Aliens*

15. From the time of their arrival in the territory of the Republic aliens are bound to respect the authorities and obey the laws.

16. Aliens enjoy in Honduras all the civil rights of citizens of Honduras.

17. They may acquire all kinds of property in the country in conformity with the law: they shall be liable to all the ordinary charges and likewise to all extraordinary charges of a general character to which citizens of Honduras may be liable.

18. They shall not be entitled to make any claims against or to require any compensation from the State except in the manner and in the cases in which citizens of Honduras are entitled to do so.

They shall not be entitled to hold public posts or employments, including offices in the various religious sects established in the country, on pain of expulsion; nevertheless, they shall be entitled to occupy posts in the teaching profession and in the arts and in any other branch not covered by the prohibition.

19. Aliens shall not be entitled to avail themselves of diplomatic action, except in cases of denial of justice. For this purpose nothing other than a final judgment which is given against the claimant constitutes a denial of justice.

If an alien, in contravention of this provision, fails to desist from his claim and abide by the judgment, thereby prejudicing the interests of the country, he shall forfeit his right to live in Honduras.

21. The laws shall prescribe the manner and the cases in which an alien may be refused admission to the national territory, or his expulsion therefrom ordered, on the grounds that he is deemed to be dangerous to the country.

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<sup>1</sup> English translation by courtesy of the American Law Institute; for Spanish text, see *La Gaceta*, 15-16 Apr. 1937, Year LXII, No. 10172-10173, or Andrés María LAZCANO y MAZON: *Constituciones políticas de América*, Vol. II, pp. 103-138.

22. The protection of these guarantees shall be regulated by laws and treaties but shall not be altered thereby.

23. The provisions of this chapter shall not modify existing treaties between Honduras and other nations.

### TITLE III. CONSTITUTIONAL RIGHTS AND GUARANTEES

30. The Constitution guarantees to all the inhabitants of Honduras, whether nationals or foreigners, the inviolability of human life, individual security, liberty, and equality with respect to the law and property.

#### *Chapter I. Inviolability of Human Life*

31. The death penalty is abolished in Honduras; but pending the establishment of a penitentiary system, the said penalty shall be imposed, in the cases determined by law, only upon persons convicted of parricide, murder, and treason committed in active military service and in campaign.

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#### *Chapter II. Individual Security*

36. Solitary confinement of a prisoner shall not exceed forty-eight hours.

41. No-one may be imprisoned or detained except in the places established by law. Prisons shall be used only for the safekeeping of accused persons or convicts.

46. No-one shall be molested or persecuted on account of his opinions. Private acts not affecting public order or injuring third parties shall be always beyond the action of the law.

47. Whipping, beating, and all kinds of torture are prohibited. Unnecessary shackling and all undue severity are also prohibited.

48. The dwelling of every person is a sacred asylum, and may not be entered except by the authorities in the following cases:

(3) In case of fire, earthquake, flood, epidemic or similar disaster; and to make any purely sanitary inspection.

53. The enactment of laws providing for proscription, confiscation, or the establishment of infamous or perpetual penalties, is prohibited.

Sentences shall not impose punishment for a term longer than twelve years, and in the case of accumulation of sentences for several offences, for a term longer than twenty years.

55. Police protection shall be entrusted only to the civil authorities.

#### *Chapter III. Liberty*

57. The Church is separated from the State.

The free exercise of all religions not opposed to the laws of the country is guaranteed.

The granting of subsidies to any cult or for religious instruction is prohibited.

59. Every person may freely express his opinions without previous censorship, orally or in writing, through the press or by any other method; but this guarantee shall not exempt any person from responsibility for crimes and abuses committed in the exercise of this freedom, in the form and in the cases determined by law.

In no case shall the press or its equipment be seized as an instrument of crime.

60. The freedom of education is guaranteed. Education supported by public funds shall be secular, and primary education shall also be gratuitous, compulsory, provided by the municipalities at their own expense, and subsidised by the State.

61. The freedom of assembly without arms and of association for any lawful purpose is guaranteed.

The establishment of all kinds of monastic institutions is prohibited. The entry into the country of persons belonging to these associations shall be regulated by law.

62. Industry and commerce are free; but alcohol, spirituous liquors, nitrate, gunpowder, firearms, munitions of war, and explosives used in the military art, may be monopolised on behalf of the State.

The traffic in narcotic drugs or medicines shall be regulated by the law and by international agreements.

63. There shall be no monopolies in favour of private persons.

Privileges may be granted for a period not exceeding ten years. With regard to concessions granted to aid the introduction or development of new industries, immigration, credit institutions, and for the opening of ways of communication or colonisation enterprises, the term may be up to ninety years, but shall not be extended beyond this period.

In the cases mentioned above, exemptions shall be made only for duties and taxes already established; but in no case or under any circumstances shall exemptions be made, in any concession or treaty, of public burdens not yet established.

The State may not grant exemptions from the payment of municipal burdens in any concessions which it may make or in any treaties which it may enter into.

Upon the expiration of any concession relative to colonisation, immigration, or the opening of ways of communication, the enterprise with all its equipment and in full operation shall become the property of the State, without any compensation whatsoever.

64. Every person may acquire property and dispose of the same for any reason, subject, however, to the limitations established by the law.

65. The entailment of property and the creation of mortmain estates in favour of religious institutions are prohibited.

66. Every person, or group of persons, has the right to address petitions to the legally established authorities, have them acted upon, and be informed of the result.

67. Every person may enter or leave the territory of the Republic, travel within its boundaries, and change his residence, in accordance with the laws.

#### *Chapter IV. Equality*

69. All Hondurans are equal before the law.

The Republic does not recognise personal immunities or privileges.

72. Direct taxation shall be levied on a proportionate basis.

#### *Chapter V. Property*

73. No-one shall be deprived of his property except by law, or by judicial decision founded on law.

74. The expropriation of real property for reasons of public necessity or utility must be made in compliance with the law or judicial decision founded on law, and shall not be carried out without previous indemnification.

75. The ownership of property shall be subject to the right of eminent domain of the State within its territorial limits, and shall not be superior to the rights of national institutions or works of a national character.

76. Every inventor enjoys the exclusive ownership of his work or discovery for the time determined by law.

77. The right to recover confiscated property is not barred by limitation.

78. Congress alone may levy taxes and impose other public burdens.

79. Every service not to be rendered gratuitously by virtue of a law or a judicial decision founded on law must be compensated.

80. No person who enjoys the free administration of his property may be deprived of the right to settle his civil affairs by negotiation or arbitration.

## TITLE V. THE LEGISLATIVE POWER

### *Chapter II. Attributions of Congress*

101. Congress has the following attributions:

(16) To decree prizes and grant privileges for limited periods to authors and inventors and those who have introduced new industries or improved existing industries of general utility.

(18) To approve, modify, or disapprove contracts concluded by the Executive in the cases provided for in article 63 and in cases in which they are intended to remain operative during the following presidential period.

(29) To grant subventions for objects of public utility and decree subsidies to promote new industries and improve existing ones.

(34) To regulate the payment of the national debt.

(35) To decree loans.

(36) To approve or disapprove the alienation of the national property and its application to public uses.

(37) To regulate commerce by sea, land and the air.

(40) To adopt laws for the control of the international exchanges and the stabilisation of the monetary system.

102. The Legislative Power may not change or declare the civil status of persons or grant professional titles. The studies and formalities required for obtaining such titles by the laws concerning public instruction may not be dispensed with except by a reform of these laws of general application.

## TITLE VI. THE EXECUTIVE POWER

### *Chapter II. Attributions of the Executive Power*

121. The President of the Republic is responsible for the general administration of the country.

His attributions are:

(24) To organise, direct and encourage public instruction and spread popular education.

## TITLE VIII. NATIONAL TREASURY

### *Chapter I. National Property*

150. The State shall have the right at any time to impose upon private property rights in land and waters, whether belonging to citizens of Honduras or aliens, the conditions which are found requisite in the general interest, for reasons of public necessities or public utility, subject to payment of compensation in advance.

151. For the purpose of creating agricultural small holdings, the State shall make grants of land to families of citizens of Honduras, whether citizens by birth or by naturalisation.

The law shall lay down the conditions of purchase and the liabilities of the donee.

152. The direct and imprescriptible ownership of all natural wealth found in the subsoil is vested in the State.

The exploitation thereof and the profits to be derived therefrom shall be governed by the relevant laws.

153. The full, inalienable and imprescriptible ownership of territorial waters to a distance of 12 kilometres reckoned from the lowest tide level is vested in the State; the full, inalienable and imprescriptible ownership of the foreshore and of lakes, lagoons, estuaries, rivers and streams with a constant volume of water is also vested in the State.

Streams which have their source and disappear within private property are exceptions to this rule.

154. The use of the waters covered by the preceding article accrues to all inhabitants of the country; nevertheless, the Government shall have power to enter into contracts with respect to the use of the said waters, provided that these contracts shall not establish exclusive rights and shall be without prejudice to any general or local orders which may be promulgated respecting the matter.

155. Full ownership in the State lands hereinafter enumerated shall not be alienated except for family holdings:

(1) In the zones adjacent to neighbouring States and on the coasts of both seas, within a radius of 40 kilometres;

(2) Common land belonging to villages and hamlets;

(3) Islands, islets, reefs, rocks, hidden rocks and sandbanks;

(4) Land owned by native tribes which have now died out, and land which belonged to villages and municipalities which have disappeared.

157. The following shall constitute the cultural treasure of the nation:

(1) All artistic and historical riches existing in the country, which shall be placed under the protection of the State; the State may prohibit the exportation or alienation thereof, and in this case must purchase the artistic or historical property in question for itself;

(2) Ruins of ancient cities and archeological objects, which shall be inalienable and imprescriptible;

(3) Places noted for their natural beauty or for their artistic or historical value.

The State shall keep a register of such cultural treasures and shall arrange for the custody thereof; it shall prescribe the penal liabilities which may be incurred in connection therewith.

### *Chapter III. Supervision*

166. When the Executive proposes to enter into contracts involving the national Treasury, it shall publish the proposals in advance in the official gazette (*La Gaceta*); if no more advantageous proposals are made, the Executive may conclude the contract.

Contracts for important public works or services shall always be put up for public tender.

Contracts for the provision of necessary war supplies and contracts which by the nature thereof can only be entered into with a particular person shall be exceptions to this rule.

## TITLE XII. EMPLOYMENT AND THE FAMILY

191. It shall not be lawful to require any person to work for remuneration for more than eight hours in the day. There shall be one day's rest for every six days of work.

An act respecting industrial accidents shall be issued to make provision with respect to the employer's liability and the conditions for giving effect thereto.

192. Young persons under the age of sixteen years and women shall not be employed on unhealthy or dangerous work or on night work in industry. They shall not be employed in commercial establishments after 6 p.m.

193. It shall not be lawful to conclude a contract of employment with young persons under the age of twelve years; young persons over the age of twelve years but under the age of sixteen years shall not be employed for more than six hours a day.

194. Wages shall be paid exclusively in cash in the legal currency of the Republic.

195. Large industrial undertakings shall be bound to establish hospitals at their workplaces for the treatment of their employees who incur accidents or sickness.

196. It shall be the duty of the State to watch over public health and the hygienic welfare of the Nation.

197. The family shall be deemed to be the basis of society and shall be under the protection of the State.

The State shall therefore make provision for the organisation of its property, for the efficient protection of maternity and for child welfare.

198. The State shall provide and encourage adequate education to enable the inhabitants of the Republic to receive training in agriculture, industry and arts and crafts.

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## LABRADOR

*See Newfoundland*

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## MEXICO

Constitution of the United States of Mexico<sup>1</sup>

*31 January 1917, as Amended to 5 November 1942*

### TITLE I

#### *Chapter I. Individual Guarantees*

1. Every person in the United States of Mexico shall enjoy all rights granted

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<sup>1</sup>English translation partly by courtesy of the American Law Institute, partly from *British and Foreign State Papers*, Vol. 132, 1930, Part I, pp. 921-942, and partly from *Select Constitutions of the World*, published by the Stationery Office, Dublin, 1922, pp. 241-292; for Spanish text, see *Constitución política reformada*, Publicaciones Farrera, Mexico, D.F., 1941, or Andrés María LAZCANO Y MAZON: *Constituciones políticas de América*, Vol. II, pp. 139-208.

by this Constitution, and such rights shall not be abridged or suspended except in such cases and under such conditions as are herein provided.

2. Slavery is forbidden in the United States of Mexico. Slaves who enter the national territory shall, by this very act, become free, and shall be entitled to the protection of the law.

3. Education given by the State shall be socialistic, and in addition to excluding all religious doctrines shall combat fanaticism and prejudices, for which purpose the school shall organise its instruction and activities in such a way as to impart to youth a rational and accurate concept of the universe and of social life.

Only the Government — Federal, State, or municipal — shall give primary, secondary, or normal education. Private persons may be authorised to give education in any of the three foregoing categories, subject in every case to the following requirements:

I. The activities and instruction of private educational institutions shall conform, without exception, to the provisions of the first paragraph of this article, and shall be in charge of persons who in the judgment of the State have sufficient professional training, and whose moral principles and ideology are consistent with this precept. Therefore, religious corporations, ministers of creeds, stock corporations whose activities are exclusively or substantially devoted to education, and associations or organisations directly or indirectly connected with the propagation of a religious belief, shall not interfere in any way with primary, secondary, or normal schools, nor shall they support them economically;

II. The formation of plans, programmes, and methods of instruction shall in all cases be the function of the State;

III. Private institutions shall not function without obtaining express prior authorisation of the Public Power in each case.

IV. The State may revoke, at any time, the authorisations granted. There shall be no appeal from such revocation, or judicial action of any kind.

These same principles shall govern the education of whatever type or grade imparted to labourers or agricultural workers.

Primary education shall be compulsory and shall be given free of charge by the State.

The State may, in its discretion and at any time, withdraw recognition of the official validity of studies made in private institutions.

The Congress of the Union, for the purpose of unifying and co-ordinating education throughout the Republic, shall enact the necessary laws to apportion the social-educational function among the Federation, the States, and the municipalities, to fix the economic contributions corresponding to such public service, and to provide the sanctions applicable to officials who do not comply or require compliance with the corresponding provisions, as well as to all those who infringe them.

4. No person shall be prevented from engaging in the profession, industry, commerce, or work which is agreeable to him, provided it be lawful. The exercise of this liberty shall be forbidden only by judicial order, when the rights of third persons are invaded, or by governmental resolution issued under the terms prescribed by law, when the rights of society are violated. No-one may be deprived of the fruits of his labour except by judicial decision.

The law in each State shall determine what professions require a licence for their practice, the conditions which must be met to obtain it, and the authorities who are to issue it.

5. No-one shall be compelled to render personal services without due compensation and without his full consent, except labour imposed as a penalty by judicial decree, which shall conform to the provisions of clauses I and II of article 123.

The following public services alone may be made compulsory, subject to the

conditions to be laid down by the relevant laws: military service, jury service, the performance of duties of municipal councillors and of offices to which appointment is made by popular election whether direct or indirect. The duties of persons responsible for conducting elections and taking a census shall be compulsory in character and honorary; professional services of a social character shall be compulsory and shall be remunerated in conformity with the provisions of the law and subject to the exceptions prescribed therein.

The State shall not permit any contract, covenant, or agreement to be carried out which has for its object the abridgement, loss, or irrevocable sacrifice of the liberty of man, whether by reason of labour, education, or religious vows. The law, therefore, does not permit the establishment of monastic orders, whatever the denomination or purpose may be.

Neither are agreements permitted by which a person agrees to his own proscription or exile, or by which he permanently or temporarily renounces the practice of any profession or the right to engage in any particular business or industry.

Contracts for labour shall only bind the maker to perform the services agreed upon for the time fixed by law, not to exceed one year to the prejudice of the labourer; and such contracts shall not in any case extend to the waiver, loss, or abridgement of any political or civil rights.

Breach of such contracts by the labourer shall subject him to civil liability only, and in no case shall physical compulsion be employed.

6. The expression of ideas shall not be the object of any judicial or administrative enquiry, unless such ideas are contrary to morality, violate the rights of third parties, incite crime, or disturb the public peace.

7. The freedom of writing and publishing writings on any subject is inviolable. No law or authority shall establish previous censorship, nor require a bond from authors or printers, nor restrict the liberty of the press, which shall be limited only by due respect for private life, morality, and public peace. Under no circumstances shall a press be sequestered as the instrument of a crime.

The organic laws shall prescribe whatever measures are necessary to prevent the imprisonment, under pretext of charges against the press, of distributors, newsboys, workmen, and other employees of the establishment publishing the writing denounced, unless their responsibility be previously established.

8. Public officials and employees shall respect the exercise of the right of petition, provided it be presented in writing and in a peaceful and respectful manner; but in political matters this right may be exercised only by citizens of the Republic.

Every petition shall be entitled to an answer in writing, in the form of a decision, by the authority to whom it may have been addressed, and the said authority shall be bound to acquaint the petitioner promptly with the result.

9. The right peaceably to assemble or come together for any lawful purpose shall not be abridged; but only citizens of the Republic may do so for the purpose of taking part in the political affairs of the country. No armed assemblage shall have the right to deliberate.

An assembly or meeting having for its purpose the making of a petition or presenting a protest to an authority against any act shall not be considered illegal or be dissolved, provided no insults be proffered against such authority, nor violence resorted to, nor threats used to intimidate or compel the said authority to render a favourable decision.

11. Everyone has the right to enter and leave the Republic, to travel through its territory, and to change his residence without the necessity of a letter of security, passport, safe-conduct, or other similar requirements. The exercise of this right shall be subordinated to the powers of the judiciary, in cases of criminal or civil responsibility, and to those of the executive, with respect to the limitations which may be imposed by the laws in regard to emigration, immi-



gration, the public health, or in regard to undesirable aliens resident in the country.

13. No-one shall be tried under special laws or by special courts. No person or corporation shall have special privileges or enjoy emoluments which are not in compensation for public services and established by law. . .

15. No treaties shall be made for the extradition of political offenders, or of ordinary offenders who were slaves in the country where they committed the crime; nor shall any agreement or treaty be entered into which modifies the guarantees and rights granted by this Constitution to the individual and the citizen.

16. No-one shall be molested in his person, family, domicile, papers, or possessions, except by virtue of a written order of the competent authority, setting forth the legal grounds and reasons for such action. . .

Administrative officials may enter private houses solely for the purpose of ascertaining whether the sanitary and police regulations have been complied with; and they may require the exhibition of books and papers necessary to prove that the fiscal regulations have been observed, provided that such officials act in accordance with the respective laws and the formalities prescribed for cases of search.

17. No-one shall be imprisoned for debts of a purely civil character. No-one shall take the law into his own hands, nor resort to violence in the enforcement of his rights. The courts shall be open and ready to administer justice at such times and under such conditions as the law may establish; their services shall be gratuitous, and all judicial costs are accordingly prohibited.

18. Detention shall be lawful only for crimes subject to corporal punishment. The place of detention shall be different and completely separated from the place used by those serving sentences.

The Federal and State Governments shall organise in their respective territories the penal system—penal colonies, penitentiaries, or prisons—on the basis of labour as a means of rehabilitation.

19. . . . .

Any maltreatment during apprehension or confinement; any hardship inflicted without legal justification; any exaction or contribution demanded in prison, are abuses which the law shall correct and the authorities repress.

20. In every criminal trial the accused shall enjoy the following guarantees:

X. In no event may imprisonment or detention be extended because of failure to pay counsel fees or any other pecuniary charges arising from civil liability or any other similar cause. Nor shall detention be extended beyond the time set by law as the maximum for the offence charged.

. . . . .

21. The imposition of all penalties is an exclusive attribute of the judiciary. The prosecution of crimes belongs to the *Ministerio Público* (Public Prosecutor) and to the judicial police, who shall be under the authority and immediate command of the former. The punishment of violations of governmental and police regulations belongs to the administrative authorities, and shall consist only of a fine or of confinement not exceeding thirty-six hours. Should the offender fail to pay the fine imposed on him, it shall be commuted by the corresponding period of confinement, which shall in no case exceed fifteen days.

Should the offender be a wage earner or labourer, he shall not be punished with a fine greater than the amount of his weekly wage or salary.

22. Punishments by mutilation and infamy, by branding, flogging, beating with sticks, torture of any kind, excessive fines, confiscation of property, and any other kind of unusual and excessive punishment, are prohibited.

The application by the judicial authority of all or a part of a person's

property to the satisfaction of a civil liability resulting from an offence, or to the payment of taxes or fines, shall not be deemed a confiscation of property.

The death penalty for political offences is also prohibited; in other cases it may be imposed for high treason committed during a foreign war, parricide, murder committed maliciously, by premeditation, or for personal gain, arson, kidnapping, highway robbery, piracy, and grave military offences.

24. Every man is free to profess the religious belief of his own choice, and to observe the ceremonies, devotions, or acts of the respective creed, in church or at home, provided they do not constitute a crime or wrong punishable by the law.

Every religious act of public worship shall be performed strictly within the church, which shall at all times be under the supervision of the Government.

27. The ownership of the lands and waters comprised within the boundaries of the national territory is vested originally in the Nation, which has had, and has, the right to transmit the title thereof to private individuals, thereby constituting private property.

Expropriations may only be effected for reasons of public utility and subject to payment of indemnification.

The Nation shall at all times have the right to impose on private property such limitations as the public interests may demand, as well as the right to regulate the utilisation of natural resources which are susceptible of appropriation, in order to conserve them and to insure an equitable distribution of public wealth. With this end in view, the necessary measures shall be taken to divide up large landed estates; to develop small landed holdings in operation; to create new agricultural communities with the indispensable lands and waters; to encourage agriculture, to prevent the destruction of natural resources and to protect property from damage to the detriment of society. Centres of population which lack lands or water or which do not possess them in sufficient quantities for the needs of their inhabitants shall be entitled to grants thereof, which shall be taken from adjacent properties, the rights of small landed holdings in operation being respected at all times.

In the Nation is vested the direct ownership of all minerals or substances which, in veins, ledges, masses or beds, form deposits of a nature distinct from that of the components of the earth itself, such as the minerals from which industrial metals and metalloids are extracted; deposits of precious stones, rock-salt and the deposits of salt formed by sea-water; products derived from the decomposition of rocks, when subterranean works are required for their extraction; mineral or organic deposits of materials susceptible of utilisation as fertilisers; solid mineral fuel; petroleum, and all solid, liquid or gaseous hydrocarbons.

The following are likewise the property of the Nation: the waters of territorial seas, to the extent and within the limits fixed by international law; those of lagoons and inlets along the sea coasts; those of interior lakes of natural formation which are directly connected with streams having a constant flow; those of main rivers or tributaries from the point where the first permanent current of water issues to their mouth, whether they flow into the sea or cross two or more States; those of intermittent streams whose principal branch crosses two or more States; the waters or rivers, streams or ravines which form national or State boundaries; waters extracted from mines; and the beds and banks of interior lakes and streams to the extent fixed by law. Any other flowing water not comprised within the foregoing enumeration shall be deemed to be an integral part of the private property through which it flows; but the exploitation of the water, if its course goes from one property to another, shall be considered of public utility, and shall be subject to the laws that may be passed by the States.

In the cases to which the two preceding paragraphs refer, the ownership of the Nation shall be inalienable and imprescriptible, and concessions may only

be granted by the Federal Government to private individuals or civil or commercial companies constituted in accordance with Mexican laws, on condition that regular works are established for the utilisation of the said resources and that all the requirements of the laws are complied with.

Capacity to acquire ownership of lands and waters of the Nation shall be governed by the following provisions:

I. Only Mexicans by birth or naturalisation and Mexican corporations have the right to acquire ownership of lands, waters and their appurtenances, or to obtain concessions for exploiting mines, waters or mineral fuel in the Republic of Mexico. The Nation may grant the same right to foreigners, provided they agree before the Secretariat of Foreign Relations to consider themselves as nationals in respect of such property, and accordingly not to invoke the protection of their Governments in matters relating thereto; under penalty, in case of non-compliance, of forfeiture to the Nation of property so acquired.

Under no circumstances may foreigners acquire direct ownership of lands and waters within a zone of 100 kilometres along the frontiers and 50 kilometres from the sea coast.

II. The religious institutions called churches, irrespective of creed, may in no case have capacity to acquire, possess or administer real property or capital invested therein; property so held at present, either directly or through third parties, shall revert to the Nation, any person whatsoever being authorised to denounce property so held. Strong presumptive proof shall suffice to declare the denunciation well-founded. Buildings destined for public worship are the property of the Nation, as represented by the Federal Government, which shall determine those of them which ought to continue to be devoted to such purposes. Episcopal residences, rectories, seminaries, asylums and collegiate establishments belonging to religious orders, convents and any other buildings built or intended for the administration, propagation or teaching of any religious creed shall at once pass, by inherent right, to the direct ownership of the Nation, to be used exclusively for the public services of the Federation or the States, within their respective jurisdictions. All places of public worship hereinafter erected shall be the property of the Nation.

III. Public and private charitable institutions for the assistance of the necessitous, for scientific research, or for the diffusion of knowledge, mutual aid societies or organisations formed for any other lawful purpose shall in no case acquire more landed property than is indispensable for their object, and is directly or indirectly destined for that purpose, but they may acquire, hold, or administer loans made on real property unless the mortgage terms exceed ten years. In no case shall institutions of this character be under the patronage, direction, administration, charge, or supervision of religious corporations or institutions, nor of ministers of any religious creed or of their dependants even though either the former or the latter shall not be in the exercise of their office.

IV. Commercial stock companies shall not acquire, hold, or administer rural properties. Companies of this nature which may be organised to develop any manufacturing, mining, petroleum or other industry, excepting only agricultural industries, may acquire, hold, or administer lands only in an area absolutely necessary for their establishments or adequate to serve the purposes indicated, which the Executive of the Union or of the respective State in each case shall determine.

V. Banks duly organised under the laws governing credit institutions may hold capital invested in rural or urban property in accordance with the provisions of the said laws, but they may not own nor administer more real property than that absolutely necessary for their direct purposes.

VI. With the exception of the corporations referred to in (III), (IV) and (V) hereof, and the centres of population which, *de facto* or *de jure*, preserve their

communal character, or have received grants or restitutions, or have been organised as centres of agricultural population, no other civil corporation may own or manage on its own behalf real property or capital invested therein, with the sole exception of the buildings intended immediately and directly for the purposes of the institution. The States, the Federal District and the Territories, as well as the municipalities throughout the Republic, shall enjoy the full capacity to acquire and possess all the real estate necessary for public services.

The Federal and State laws shall determine, within their respective jurisdictions, those cases in which the occupation of private property shall be considered of public welfare, and in accordance with the said laws the administrative authorities shall make the respective declaration. The amount fixed as indemnification for the property expropriated shall be based on the sum at which the said property is recorded in the cadastral or tax offices for fiscal purposes, whether this value be that stated by the owner or simply tacitly accepted by him on account of his having paid taxes on such a basis. The only point which may be decided by experts and judicial determination is the increased or decreased value of the private property on account of improvements carried out since the last fiscal appraisal or its depreciation since that date. The same procedure shall be observed in the case of objects whose value is not recorded in the tax offices.

The exercise of actions pertaining to the Nation under the provisions of this article shall be effected by judicial procedure, but during the proceedings, and by order of the appropriate tribunals, which shall be issued within a maximum term of one month, the administrative authorities shall proceed without delay to occupy, manage, auction or sell the lands and waters in question and all their appurtenances, and in no case may the acts of the said authorities be set aside until a final sentence is given.

VII. The centres of population which, *de facto* or *de jure*, preserve a communal character, shall have capacity to enjoy common possession of the lands, forests and waters belonging to them or which have been or may be restored to them.

VIII. The following are declared null and void:

- (a) All alienations of lands, waters and forests of villages, farms, groups or communities made by Provincial Governors, State Governors or any other local authority in violation of the Law of 25 June 1856, and other relative laws and regulations.
- (b) All concessions, compromises or sales covering lands, waters and forests, or deals in regard thereto, or sales thereof, by the Secretariat of Development or Finance, or any other Federal authority, from 1 December 1876, to the present date, encroaching on or illegally occupying public lands, lands of common allotment, or lands of any other nature belonging to villages, farms, groups or communities and centres of population.
- (c) All proceedings with regard to surveys or demarcation of boundaries, deals, alienations or sales by auction effected during the period of time referred to in the preceding sub-clause, by companies, judges or other State or Federal authorities entailing encroachments on or illegal occupation of the lands, waters or forests of public holdings, holdings by common allotment, or holdings of any other kind belonging to centres of population.

The sole exception to the aforesaid nullity shall be the lands to which title has been granted in allotments made in strict accord with the Law of 25 June 1856, held by persons in their own name for more than 10 years, and whose area does not exceed 50 hectares.

IX. Divisions or allotments of land among the inhabitants of any centre of population which, although made to appear legitimate, are not so owing to mistake or fraud, may be nullified at the request of three-fourths of the residents holding

one-fourth of the lands divided, or at the request of one-fourth of the said residents holding three-fourths of the land.

X. Centres of population which lack communal lands or are unable to have the same restored to them owing to lack of title, impossibility of identifying them or because they have been legally alienated, shall be granted sufficient lands and waters to constitute the same in accordance with their requirements; but in no case shall they fail to be granted the area of land required, which shall be expropriated for account of the Federal Government, and be taken from that adjoining the villages in question.

XI. For the purpose of carrying out the provisions of this article and of the regulating laws that may be issued, the following shall be established:

- (a) A direct dependency of the Federal Executive entrusted with the application and enforcement of the agrarian laws.
- (b) A consultative board, composed of 5 persons, to be appointed by the President of the Republic, which shall discharge the duties assigned to it by the organic laws.
- (c) A mixed commission, composed of an equal number of representatives of the Federal Government and the local Governments, and one representative of the peasants, to be appointed in the manner set forth in the respective regulating law, which shall function in each State and Territory and in the Federal District, with the duties assigned to it by the said organic and regulating laws.
- (d) Private executive committees for each of the centres of population which handle agrarian cases.
- (e) Communal offices for each of the centres of population which possess communal lands.

XII. Petitions for the restitution or grant of lands or waters shall be presented direct to the Governors of States and Territories.

The Governors shall refer the petitions to the mixed commissions, which shall study the cases during a brief fixed period of time and submit a report. The State Governors shall approve or modify the report of the mixed commissions and issue orders that immediate possession be given of such areas of land as they may deem proper. The file of the case shall then be referred to the Federal Executive for decision.

When the Governors fail to comply with the provisions of the preceding paragraph within the brief period of time fixed by law, the report of the mixed commissions shall be considered rejected, and the case shall be referred immediately to the Federal Executive.

On the other hand, should the mixed commissions fail to make a report within the brief time limit fixed, the Governors shall be empowered to grant possession in respect of such area of land as they may deem proper.

XIII. The dependency of the Executive and the agrarian consultative board shall report on the approval, rectification or modification of the reports made by the mixed commissions with the changes made therein by the local Governments, and notify the President of the Republic, in order that he, as supreme agrarian authority, may issue an award.

XIV. Landowners affected by decisions whereby communal lands or waters have been granted or restored to villages, or by decisions which may in future be made, shall enjoy no ordinary legal right or recourse, and they cannot institute "amparo" proceedings.

Parties affected by grants shall only have the right to apply to the Federal Government for payment of the corresponding indemnity. This right must be exercised by the claimants within a term of one year, reckoned from the date of publication of the respective resolution in the *Diario Oficial* of the Federation. No claim shall be admitted after the expiration of this term.

XV. Mixed commissions, local Governments and other authorities entrusted with agrarian proceedings may, under no circumstances whatsoever, touch small agrarian properties in operation, and shall incur liability for violating the Constitution should they make grants affecting the same.

XVI. Lands which must be adjudicated individually shall be divided up at the time the presidential decision is put into effect, in the manner laid down in regulating laws.

XVII. The Congress of the Union and the State Legislatures, within their respective jurisdictions, shall pass laws fixing the maximum extent of land for rural property, and governing the division of excess lands, in accordance with the following bases:

- (a) The maximum area of land which an individual or legally organised company may own in each State and Territory and in the Federal District shall be fixed.
- (b) The excess of the area thus fixed shall be sub-divided by the owner within a time limit fixed by the local laws, and these sub-divisions shall be offered for sale on such conditions as may be approved by the respective Governments, in accordance with the said laws.
- (c) The local Governments shall divide up the property, should the owner refuse to do so, by means of expropriation proceedings.
- (d) The sub-division shall be paid for in annual instalments which amortise capital and interest, at a rate of interest not exceeding 3 per cent. per annum.
- (e) The owner shall be bound to accept bonds of the local Agrarian Debt to guarantee the payment of the property expropriated. With this end in view, the Congress of the Union shall pass a law empowering the States to create their own Agrarian Debt.
- (f) No division of property may be allowed unless all the agrarian requirements of the adjacent villages have been satisfied. Agrarian cases shall be dealt with within a short time limit, whenever there are pending projects for the division of lands.
- (g) The local laws shall govern the extent of family patrimony and determine what property shall constitute the same on the basis of its inalienability and non-subjection to attachment or to any charge whatsoever.

XVIII. All contracts entered into and concessions granted by former Governments from the year 1876, which have resulted in the monopoly of lands, waters and natural resources of the Nation by a single individual or company, are declared subject to revision, and the Executive of the Union is empowered to declare those null and void which imply serious detriment to public interests.

28. There shall be no monopolies of any kind whatsoever in the United States of Mexico; nor exemption from taxation; nor any prohibition even under cover of protection to industry, excepting only those relating to the coinage of money, to the postal, telegraphic, and radio-telegraphic services, to the issuing of notes by a single banking institution to be controlled by the Federal Government, and to the privileges which for a limited period the law may concede to authors and artists for the reproduction of their work, and, lastly, to those granted inventors for the exclusive use of their inventions or improvements.

The law will accordingly severely punish, and the authorities diligently prosecute, any accumulating or cornering by one or more persons of necessities for the purpose of bringing about a rise in prices; any act or measure which shall stifle or endeavour to stifle free competition in any production, industry, trade, or public service; any agreement or combination of any kind entered into by producers, manufacturers, merchants, common carriers, or any other public service, to stifle competition, and to compel the consumer to pay exorbitant prices; and

in general whatever constitutes an unfair and exclusive advantage in favour of one or more specified persons to the detriment of the public in general or of any special class of society.

Associations of labour organised to protect their own interests shall not be deemed a monopoly.

Nor shall co-operative associations or unions of producers be deemed monopolies when, in defence of their own interests or of the general public, they sell directly in foreign markets national or industrial products which are the principal source of wealth of the region in which they are produced, provided they be not necessities, and provided further that such associations be under the supervision or protection of the Federal Government or of that of the States, and provided further that authorisation be in each case obtained from the respective legislative bodies. These legislative bodies may, either on their own initiative or on the recommendation of the Executive, revoke, whenever the public interest shall so demand, the authorisation granted for the establishment of the associations in question.

29. In cases of invasion, grave disturbance of the public peace, or any other emergency which may place society in grave danger or conflict, only the President of the Republic of Mexico, with the concurrence of the Council of Ministers, and with the approval of the Congress of the Union, or, if the latter shall be in recess, of the Permanent Committee, shall have power to suspend throughout the whole country or in any portion thereof, such guarantees as shall be a hindrance in meeting the situation promptly and readily; but such suspension shall in no case be confined to a particular individual, but shall be made by means of a general decree and only for a limited time. If the suspension occur while the Congress is in session, this body shall grant such powers as in its judgment the Executive may need to meet the situation. If the suspension occur while the Congress is in recess, the Congress shall be convoked forthwith for the granting of such powers.

## *Chapter II. Of Mexicans*

31. It shall be the duty of every Mexican:

I. To compel the attendance at either private or public schools of their children or wards, when under fifteen years of age, in order that they may receive primary instruction and military training for such periods as the law of public instruction in each State shall determine.

II. To attend on such days and at such hours as the town council shall in each case prescribe, to receive such civic instruction and military training as shall fit them to exercise their civic rights, shall make them skilful in the handling of arms and familiar with military discipline.

III. To enlist and serve in the national guard, pursuant to the organic law relating thereto, for the purpose of preserving and defending the independence, territory, honour, rights, and interests of the country, as well as domestic peace and order.

IV. To contribute in the proportionate and equitable manner prescribed by law towards the public expenses of the Federation, the State and the Municipality in which he resides.

32. Mexicans shall be preferred under equal circumstances to foreigners for all kinds of concessions and for all public employments, offices or commissions, when citizenship is not indispensable. No foreigner shall serve in the army nor in the police corps nor in any other department of public safety during times of peace.

Only Mexicans by birth may belong to the national navy, or fill any office or commission therein. The same qualification shall be required for captains, pilots,

masters, and chief engineers of Mexican merchant ships, as well as for two-thirds of the members of the crew.

It shall also be necessary to be a Mexican citizen by birth in order to serve as Captain of the Port, in all the pilotage services or as customs agent in the Republic.

### *Chapter III. Of Aliens*

33. Aliens are those who do not possess the qualifications prescribed by article 30. They shall be entitled to the guarantees granted by chapter I, title I, of the present Constitution; but the Executive shall have the exclusive right to expel from the Republic forthwith, and without judicial process, any foreigner whose presence he may deem inexpedient.

No foreigner shall meddle in any way whatsoever in the political affairs of the country.

## TITLE II

### *Chapter I. National Sovereignty and the Form of Government*

40. It is the will of the Mexican people to constitute themselves a representative democratic and Federal Republic, composed of States which are free and sovereign in everything relating to their internal affairs but united in a Federation establishment according to the principles of this fundamental law.

41. The people exercises its sovereignty by means of the powers of the Union in matters within its competence and those of the States in respect of their internal arrangements according to the provisions of the present Federal Constitution and those of the Constitutions of the States which may not in any circumstances contravene the stipulations of the Federal Pact.

## TITLE III

### *Chapter II. Of the Legislative Power*

#### *Section III. Of the Powers of the Congress*

73. The Congress shall have power:

VI. To legislate in all matters relating to the Federal District and Territories, as hereinafter provided:

.....

VII. To levy the taxes necessary to meet the expenditures of the Budget.

VIII. To establish the bases upon which the Executive may make loans on the credit of the Nation; to approve the said loans and to acknowledge and order the payment of the national debt.

IX. To prevent restrictions from being imposed on interstate commerce.

X. To legislate for the whole of the Republic with respect to hydrocarbons, mining, the cinematograph industry, credit institutions and electric power, to establish the sole Bank of Issue, subject to the conditions laid down in article 28 of this Constitution, and to issue labour laws in pursuance of article 123 of the Constitution.

XVI. To enact laws on nationality, the juridical status of aliens, citizenship,



naturalisation, colonisation, emigration and immigration, and the general health of the Republic.

- (1) The Public Health Council shall depend directly upon the President of the Republic, without the intervention of any Secretary of State, and its general provisions shall be binding throughout the Republic.
- (2) In the event of serious epidemics or of the risk of introduction of diseases from abroad, the Public Health Department shall put into force without delay the necessary preventive measures, subject to their subsequent sanction by the President of the Republic.
- (3) The sanitary authorities shall have executive powers, and their decisions shall be obeyed by the administrative authorities of the country.
- (4) All measures which the Council shall have put into effect in its campaign against alcoholism and the sale of substances injurious to men and tending to degenerate the race shall be subsequently revised by the Congress, in such cases as fall within its powers.

XVII. To enact laws on general means of communication, post roads and post offices, and to enact laws as to the use and development of the waters subject to the Federal jurisdiction.

XVIII. To establish mints, regulate the monetary system, fix the value of foreign moneys, and adopt a general system of weights and measures.

XIX. To make rules for the occupation and alienation of uncultivated lands and the prices thereof.

XXV. To establish, organise and maintain rural, elementary, high, secondary and professional schools throughout the Republic; schools of scientific research, fine arts and technical training; practical agricultural schools, arts and crafts schools, museums, libraries, observatories and other institutes for the general culture of the inhabitants of the country, and to legislate on everything relating to such institutions.

The Federation shall exercise jurisdiction over the educational institutions which it establishes, maintains and organises, without curtailing the liberty of the States to legislate on educational matters. Degrees conferred by the above-mentioned institutions shall be valid throughout the Republic.

XXIX. To impose taxes:

- (1) On foreign trade;
- (2) On the utilisation and exploitation of the natural resources covered by paragraphs 4 and 5 of article XXVII;
- (3) On credit institutions and insurance companies;
- (4) On public services granted under concession by or exploited directly by the Federation; and
- (5) Special taxes on:
  - (a) Electric energy;
  - (b) The production and consumption of manufactured tobacco;
  - (c) Gasoline and other products derived from petroleum;
  - (d) Matches;
  - (e) *Agucamiel* and the products of its fermentation; and
  - (f) The exploitation of forests.

The federated units shall participate in the income from these special taxes in the proportion determined by the Federal law. The local legislatures will fix a percentage of their receipts in respect of the tax on electrical energy which shall belong to the municipalities.

XXX. To enact all the laws necessary for carrying the foregoing faculties into execution, as well as all others granted by this Constitution to the Powers of the Union.

*Chapter III. The Executive Power*

89. The following are the powers and duties of the President :

XV. To grant exclusive privileges for limited periods in accordance with the relevant legislation to discoverers, inventors and improvers of any branch of industry.

TITLE V. OF THE STATES OF THE FEDERATION

117. No State shall in any circumstances :

III. Coin money, issue paper money, stamps or stamped paper.

IV. Levy taxes on persons or property passing through its territory.

V. Prohibit or tax, directly or indirectly, the entry into its territory, or the withdrawal therefrom, of any merchandise, foreign or domestic.

VI. Burden the circulation or consumption of domestic or foreign merchandise with taxes or duties to be collected by local custom houses or subject to inspection the said merchandise, or require it to be accompanied by documents.

VII. Enact or maintain in force laws or fiscal regulations discriminating, by taxation or otherwise, between merchandise, foreign or domestic, on account of its origin, whether this discrimination be established with regard to similar products of the locality or between similar products of separate places of origin.

VIII. Issue bonds of the public debt payable in foreign coin or outside the Federal Territory; contract loans, directly or indirectly, with any foreign Government, or assume any obligation in favour of any foreign corporation or individual, requiring the issuance of certificates or bonds payable to bearer or negotiable by endorsement.

IX. Tax the production, the collection and sale of leaf tobacco in a form different from that or at rates higher than those authorised by the Congress of the Union.

The Federal Congress and the State Legislatures shall forthwith enact laws against alcoholism.

118. No State shall, without the consent of the Congress :

I. Establish tonnage dues or other port charges, or impose taxes or other duties upon imports or exports.

121. In each State of the Federation full faith and credit shall be given to the public acts, registers and judicial proceedings of all the others. The Congress of the Union shall by means of general legislation based on the following principles prescribe the manner in which such acts, registers and proceedings shall be proved and the effect thereof :

V. Professional titles granted by the authorities of one State in accordance with its laws shall be respected in the others.

TITLE VI. OF LABOUR AND SOCIAL WELFARE

123. The Congress of the Union<sup>1</sup> shall enact laws on labour applicable to skilled and unskilled workmen, employees, domestic help and artisans, and in

<sup>1</sup> Prior to the amendment of the Constitution in 1929 this provision applied to both the Congress of the Union and the State Legislatures which then enjoyed concurrent legislative powers in respect of labour questions.

general every labour contract: which shall be in conformity with the following principles:

I. Eight hours shall be the maximum limit of a day's work.

II. The maximum limit of night work shall be seven hours. Unhealthy and dangerous occupations are forbidden to all women and to children under sixteen years of age. Night work in factories is likewise forbidden to women and to children under sixteen years of age; nor shall they be employed in commercial establishments after ten o'clock at night.

III. The maximum limit of a day's work for children over twelve and under sixteen years of age shall be six hours. The work of children under twelve years of age shall not be made the subject of a contract.

IV. Every workman shall enjoy at least one day's rest for every six days' work.

V. Women shall not perform any physical work requiring considerable physical effort during the three months immediately preceding parturition; during the month following parturition they shall necessarily enjoy a period of rest and shall receive their salaries or wages in full and retain their employment and the rights they may have acquired under their contracts. During the period of lactation they shall enjoy two extraordinary periods of rest of one-half hour each, in order to nurse their children.

VI. The minimum wage to be received by a workman shall be that considered sufficient, according to the conditions prevailing in the respective region of the country, to satisfy the normal needs of the life of the workman, his education and his lawful pleasures, considering him as the head of a family. In all agricultural, commercial, manufacturing or mining enterprises the workman shall have the right to participate in the profits in the manner fixed in clause IX of this article.

VII. The same remuneration shall be paid for the same work, without regard to sex or nationality.

VIII. The minimum wage shall be exempt from attachment, set-off or discount.

IX. The fixing of the minimum wage and of the participation in profits referred to in (6) shall be carried out by special commissions appointed in each municipality and subordinate to the Central Board of Conciliation and Arbitration established in each State. In the absence of such commissions, the minimum wage shall be fixed by the respective Board of Conciliation and Arbitration.

X. All wages shall be paid in legal currency and shall not be paid in merchandise, orders, counters or any other representative token with which it is sought to substitute money.

XI. When owing to special circumstances it becomes necessary to increase the working hours, there shall be paid as wages for the overtime one hundred per cent. more than those fixed for regular time. In no case shall the overtime exceed three hours nor continue for more than three consecutive days; and no women of whatever age nor boys under sixteen years of age may engage in overtime work.

XII. In every agricultural, industrial, mining or other class of work employers are bound to furnish to their workmen comfortable and sanitary dwelling-places, for which they may charge rents not exceeding one-half of one per cent. per month of the assessed value of the properties. They shall likewise establish schools, dispensaries and other services necessary to the community. If the factories are located within inhabited places and more than one hundred persons are employed therein, the first of the above-mentioned conditions shall still be complied with.

XIII. Furthermore, there shall be set aside in these labour centres, whenever their population exceeds two hundred inhabitants, a space of land not less than five thousand square meters for the establishment of public markets and the construction of buildings designed for municipal services and places of amusement. No saloons nor gambling houses shall be permitted in such labour centres.

XIV. Employers shall be liable for labour accidents and occupational diseases arising from work; therefore, employers shall pay the proper compensation, according to whether death or merely temporary or permanent disability has ensued, in accordance with the provisions of law. This liability shall remain in force even though the employer contract for the work through an agent.

XV. Employers shall be bound to observe in the installation of their establishments all the provisions of law regarding hygiene and sanitation and to adopt adequate measures to prevent accidents due to the use of machinery, tools and working materials, as well as to organise work in such a manner as to assure the greatest guarantees possible for the health and lives of workmen, compatible with the nature of the work, under penalties which the law shall determine.

XVI. Workmen and employers shall have the right to unite for the defence of their respective interests, by forming syndicates, unions, etc.

XVII. The laws shall recognise the right of workmen and employers to strike and to lock-out.

XVIII. Strikes shall be lawful when by the employment of peaceful means they shall aim to bring about a balance between the various factors of production, and to harmonise the rights of capital and labour. In the case of public services, the workmen shall be obliged to give notice ten days in advance to the Board of Conciliation and Arbitration of the date set for the suspension of work. Strikes shall only be considered unlawful when the majority of the strikers shall resort to acts of violence against persons or property, or in case of war when the strikers belong to establishments and services dependent on the Government. Employees of military manufacturing establishments of the Federal Government shall not be included in the provisions of this clause, inasmuch as they are a dependency of the national army.

XIX. Lock-outs shall only be lawful when the excess of production shall render it necessary to shut down in order to maintain prices reasonably above the cost of production, subject to the approval of the Board of Conciliation and Arbitration.

XX. Differences or disputes between capital and labour shall be submitted for settlement to a Board of Conciliation and Arbitration to consist of an equal number of representatives of the workmen and of the employers and of one representative of the Government.

XXI. If the employer shall refuse to submit his differences to arbitration or to accept the award rendered by the Board, the labour contract shall be considered as terminated, and the employer shall be bound to indemnify the workman by the payment to him of three months' wages, in addition to the liability which he may have incurred by reason of the dispute. If the workman reject the award, the contract will be held to have terminated.

XXII. An employer who discharges a workman without proper cause or for having joined a union or syndicate or for having taken part in a lawful strike shall be bound, at the option of the workman, either to perform the contract or to indemnify him by the payment of three months' wages. He shall incur the same liability if the workman shall leave his service on account of the lack of good faith on the part of the employer or of maltreatment either as to his own person or that of his wife, parents, children or brothers or sisters. The employer cannot evade this liability when the maltreatment is inflicted by subordinates or agents acting with his consent or knowledge.

XXIII. Credits in favour of workmen for salary or other remuneration accrued during the past year shall be preferred over any other claims, in cases of bankruptcy or composition.

XXIV. Debts contracted by workmen in favour of their employers or their employers' associates, subordinates or agents, may only be charged against the workmen themselves and cannot under any circumstances be collected from the

members of his family. Nor shall such debts be paid by the taking of more than the entire wages of the workman for any one month.

XXV. No fee shall be charged for finding work for workmen which is done by municipal offices, employment bureaus or other public or private agencies.

XXVI. Every contract of labour between a Mexican citizen and a foreign principal shall be legalised before the competent municipal authority and *visé* by the consul of the nation to which the workman is undertaking to go, on the understanding that, in addition to the usual clauses, special and clear provisions shall be inserted for the payment of the cost of repatriation to the labourer by the foreign principal making the contract.

XXVII. The following stipulations shall be null and void and shall not bind the contracting parties, even though embodied in the contract:

- (a) Stipulations providing for inhuman day's work on account of its notorious excessiveness, in view of the nature of the work.
- (b) Stipulations providing for a wage rate which in the judgment of the Board of Conciliation and Arbitration is not remunerative.
- (c) Stipulations providing for a term of more than one week before the payment of wages.
- (d) Stipulations providing for the assigning of places of amusement, eating places, cafés, taverns, saloons or shops for the payment of wages, when employees of such establishments are not involved.
- (e) Stipulations involving a direct or indirect obligation to purchase articles of consumption in specified shops or places.
- (f) Stipulations permitting the retention of wages by way of fines.
- (g) Stipulations constituting a waiver on the part of the workman of the indemnities to which he may become entitled by reason of labour accidents or occupational diseases, damages for breach of contract or for discharge from work.
- (h) All other stipulations implying the waiver of any right vested in the workman by labour laws.

XXVIII. The law shall decide what property constitutes the family patrimony. These goods shall be inalienable and shall not be mortgaged, nor attached, and may be transmitted by a title of inheritance with simplified formalities in the succession proceedings.

XXIX. The passing of the law of social insurance shall be deemed as of public utility. Such law shall provide for invalidity, life insurance, unemployment, illness and accident insurance, and the like.

XXX. Co-operative associations for the construction of cheap and sanitary dwelling houses for workmen shall likewise be considered of social utility whenever these properties are designed to be acquired in ownership by the workmen within specified periods.

.....

XXXI. The administration of labour legislation is vested in the authorities of the States, within their respective spheres of jurisdiction; nevertheless, it shall be vested exclusively in the Federal authorities in matters relating to the textile industry, electric power, the cinematograph industry, the rubber and sugar industries, mining, hydrocarbons, railways, and undertakings which are administered by the Federal Government directly or under a decentralised system; undertakings operating under a Federal contract or concession or industries connected therewith; undertakings which carry out work in Federal areas and territorial waters; disputes affecting two or more federated bodies; collective contracts which have been declared binding on more than one federated body and, lastly, obligations of employers with respect to education, in the manner and subject to the conditions laid down in the relevant act.

## TITLE VII. GENERAL PROHIBITIONS

124. The powers which are not expressly granted by this Constitution to Federal officials are understood to be reserved to the States.

130. The Federal authorities shall have power to exercise in matters of religious worship and outward ecclesiastical forms such intervention as the laws prescribe. All other officials shall act as auxiliaries to the Federal authorities.

The Congress shall not enact any law establishing or forbidding any religion whatsoever.

Marriage is a civil contract. Marriage and all other acts relating to the civil status of individuals shall appertain to the exclusive jurisdiction of the civil authorities in the manner and form by law provided, and they shall have the force and validity given them by said laws.

A simple promise to tell the truth and to comply with obligations contracted shall subject the promisor, in the event of a breach, to the penalties established therefor by law.

The law recognises no juridic personality in the religious institutions known as churches.

Ministers of religious creeds shall be considered as persons exercising a profession, and shall be directly subject to the laws enacted on the matter.

The State Legislatures shall have the exclusive power of determining the maximum number of ministers of religious creeds, according to the needs of each locality. Only a Mexican by birth may be a minister of any religious creed in Mexico.

No ministers of religious creeds shall, either in public or private meetings, or in acts of worship or religious propaganda, criticise the fundamental laws of the country, the authorities in particular or the Government in general; they shall have no vote, nor be eligible to office, nor shall they be entitled to assemble for political purposes.

Under no conditions shall studies carried on in institutions devoted to the professional training of ministers of religious creeds be given credit or granted any other dispensation of privilege which shall have for its purpose the accrediting of the said studies in official institutions. Any authority violating this provision shall be punished criminally, and all such dispensation of privilege be null and void, and shall invalidate wholly and entirely the professional degree towards the obtaining of which the infraction of this provision may in any way have contributed.

No periodical publication which either by reason of its programme, its title or merely by its general tendencies, is of a religious character, shall comment upon any political affairs of the nation, nor publish any information regarding the acts of the authorities of the country or of private individuals in so far as the latter have to do with public affairs.

Every kind of political association whose name shall bear any word or any indication relating to any religious belief is hereby forbidden. No assemblies of any political character shall be held within places of public worship.

No minister of any religious creed may inherit, either on his own behalf or by means of a trustee or otherwise, any real property occupied by any association for religious propaganda or religious or charitable purposes. Ministers of religious creeds are incapable legally of inheriting by will from ministers of the same religious creed or from any private individual to whom they are not related by blood within the fourth degree.

All real and personal property pertaining to the clergy or to religious institutions shall be governed, in so far as their acquisition by private parties is concerned, by article 27 of this Constitution.

No trial by jury shall ever be granted for the infraction of any of the preceding provisions.

131. The Federal Government shall have exclusive power to levy duties on merchandise imported, exported or passing in transit through the national territory, as well as to regulate at all times, and if necessary to forbid for the sake of public safety or good government, the circulation in the interior of the Republic of all kinds of goods, regardless of their origin; but the Federal Government shall have no power to establish or decree in the Federal District and Territories the taxes and laws to which clauses VI and VII of article 117 refer.

132. The forts, barracks, warehouses and other real property set apart by the Government of the Union for the public service or for common use shall be subject to the jurisdiction of the Federal Powers in accordance with a law which the Congress of the Union shall enact but in order that property subsequently acquired within the territory of any State may be subject to their jurisdiction in like manner the consent of the Legislature of the State concerned shall be necessary.

133. The present Constitution, the laws of Congress issued thereunder, and all treaties in accordance therewith already entered into or which may be entered into by the President of the Republic, with the approval of the Senate, shall be the supreme law of the entire Union. The judges of every State shall conform to this Constitution and these laws and treaties, in spite of conflicting provisions in the Constitutions or laws of the States.

134. Tenders shall be invited for all contracts which the Government may have occasion to enter into for the execution of any public works; these tenders shall be submitted under seal and shall only be opened publicly.

#### TRANSITORY ARTICLES

13. Debts arising out of work contracted by workers before the date of this Constitution with employers or members of their families or intermediaries are automatically extinguished.

### STATES OF MEXICO

*The social and economic provisions contained in the Constitutions of the States of Mexico have lost most of their importance as the result of the extension of Federal authority. Selected extracts, chosen primarily from the Constitutions of some of the more industrialised States, are included below; for the other States references alone are given. The extracts given must be read in the light of the amendment of the Federal Constitution in 1929 to give the Federal Congress exclusive instead of merely concurrent power to legislate to give effect to the principles proclaimed in that article.*

#### Aguascalientes

Constitution of 3 September 1917<sup>1</sup>

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<sup>1</sup> Spanish text in *Labor libertaria*, 6 Sept. 1917.

### Campeche

Constitution of 30 June 1917<sup>1</sup>

.....

### Chiapas

Constitution of 28 January 1921<sup>2</sup>

.....

### Chihuahua

Constitution of 25 May 1921<sup>3</sup>

140-144. *Education.*

145. The culture of the indigenous race shall be the object of efficacious attention on the part of the State.

146-150. *Education.*

170. The law shall punish vagrancy and declare that immoral activities are punishable.

171. The State shall recognise the legal personality of the professional associations which may be established and of the groupings formed by workers and employers for the protection of their respective interests, subject to the conditions and requirements for the enjoyment of this privilege exacted by the relevant law and by that regulating labour enacted by Congress on the bases fixed in the General Constitution.

172. The law shall punish severely every concentration or cornering of articles of necessary consumption, even when they are not of primary necessity; and every business, public service, act, procedure or combination which directly or indirectly provokes an artificial rise in prices; the Executive may at any time, without special authorisation, name commissions to investigate the acts prohibited in this article and the operations of monopolisers or speculators who, when suspected of being responsible, shall be handed over to the judicial authorities.

174. In times of shortage of articles of primary necessity, Congress may decree the opening of establishments where these are sold at cost price, fixing the time during which these shops, the organisation and supervision of which shall be entrusted to the Executive, shall remain in operation.

### Coahuila

Constitution of 2 March 1921<sup>4</sup>

.....

<sup>1</sup> Spanish text in *Periódico oficial*, 8 July 1917.

<sup>2</sup> Spanish text in *ibid.*, 1 Feb. 1921.

<sup>3</sup> Spanish text in *ibid.*, 28 May 1921.

<sup>4</sup> Spanish text in *ibid.*, 7 Mar. 1921.



## Colima

Constitution of 31 August 1917<sup>1</sup>

.....

## Durango

Constitution of 5 October 1917<sup>2</sup>,  
as Amended to 28 September 1927

### 4. *Education.*

5. No-one shall be prevented from dedicating himself to the profession, industry, trade or work which suits him, subject to its being lawful. The exercise of this freedom may be prohibited only by judicial determination, when the rights of a third party are prejudiced, or by a Government resolution, expressed in the terms provided for in the law, when the rights of society are affected. No-one may be deprived of the product of his work except by judicial decision.

### *Games of chance.*

### *Professional qualifications.*

6. No-one may be obliged to render personal services without just remuneration and his full consent, with the exception of work imposed as a penalty by the judicial authority which shall be governed by the provisions of the laws — *Exceptions for discharge of public duties.*

Contracts, pacts or agreements having as their object the diminution, loss or irrevocable sacrifice of the liberty of man, whether by work, by education or by religious vows, are prohibited — *Prohibition of religious orders.*

Agreements whereby a man consents to his proscription or banishment, or undertakes not to exercise for a period or permanently a given profession, industry or trade, are also inadmissible.

The services stipulated for in a contract of labour shall be due only for the time fixed by law which may never exceed one year to the prejudice of the worker; the contract may not in any case provide for the renunciation, loss or diminution of any of his political or civil rights.

Failure to fulfil such a contract on the part of the worker shall involve for him only the corresponding civil responsibility; in no circumstances may coercion be applied against his person.

### 10. *Freedom of association.*

### 11. *Freedom of entry to and departure from the State.*

20. The imposition of penalties is reserved to the judicial authority. . . If the offender should be a skilled or unskilled worker he may not be punished with a fine greater than his weekly wages.

### 52. *Education — scholarships for study abroad — public health.*

65. It is the duty of members of the State Legislature to visit their districts at the end of each ordinary session in order that they may inform the Legislature at the following ordinary session of the state of education, industry, agriculture and other branches. . .

120. The State Legislature shall enact as soon as possible laws on labour and social welfare in accordance with the provisions of article 123 of the General Constitution of the Republic.

<sup>1</sup> Spanish text in *El Estado de Colima*, 1 Sept. 1917.

<sup>2</sup> Spanish text in *Periódico oficial*, 8 Oct. 1917.

**Guanojuato**Constitution of 3 September 1917<sup>1</sup>

.....

**Guerrero**Constitution of 27 September 1917<sup>2</sup>

.....

**Hidalgo**Constitution of 20 September 1920<sup>3</sup>

.....

**Jalisco**Constitution of 8 July 1917<sup>4</sup>

.....

**Mexico**Constitution of 31 October 1917<sup>5</sup>

.....

**Michoacan**Constitution of 31 January 1918<sup>6</sup>

.....

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<sup>1</sup> Spanish text in *Periódico oficial*, 16 Sept. 1917.

<sup>2</sup> Spanish text in *ibid.*, 6 Oct. 1917.

<sup>3</sup> Spanish text in *ibid.*, 21 Sept. 1920.

<sup>4</sup> Spanish text in *El Estado de Jalisco*, 18 July 1917.

<sup>5</sup> Spanish text in *Gaceta del Gobierno*, 8 Nov. 1917.

<sup>6</sup> Spanish text in *Periódico oficial*, 5 Feb. 1918.

## Morelos

### Constitution of 16 November 1930<sup>1</sup>

119. The public administration shall be guided by the following principles:

- I. The right of association for the protection and improvement of the economic conditions of workers, peasants and employees is recognised, and the State shall protect this right against all individuals or associations who may threaten it.
- II. An agricultural school shall be founded to give agricultural teaching to young people who wish to devote themselves to this branch. In due course experimental farms shall be established in different parts of the State for the practical instruction of agriculturists.

121. *Education.*

122. The authorities of the State shall take care to secure the strict application and observance of article 123 of the General Constitution of the Republic.

123. No law or authority may permit in the State spectacles contrary to culture and public morality.

124. Strikes and lockouts in public services are not permitted in any circumstances.

125. Vagrancy is considered an offence in the State and all its inhabitants are therefore obliged to work to provide for their own needs and those of their families. The law shall determine the exceptions.

127. All riches possessed by one or more persons shall be obliged to contribute to the public expenses of the State the proportional part determined by the laws, but at the same time the State shall afford guarantees and give facilities to all who exercise their activities and make investments within its territory. . .

## Nayarit

### Constitution of 5 February 1918<sup>2</sup>

.....

## Nuevo Leon

### Constitution of 16 December 1917<sup>3</sup>

3. *Education.*

4. *Similar to Durango Constitution, article 5, p. 381.*

5. *Similar to Durango Constitution, article 6, p. 381.*

9. *Freedom of association.*

17. . . Congress shall enact laws concerning the organisation of the penal system on the basis of work as a means of regeneration.

24. There shall not be any monopoly or store for monopolised goods or prohibition for the protection of industry, nor any exemption from taxes which constitutes an exclusive and undue advantage in favour of one or more determined persons or to the prejudice of the public in general or of any social class.

<sup>1</sup> Spanish text in *ibid.*, 20 Nov. 1930.

<sup>2</sup> Spanish text in *Gobierno del Estado*, 5 Feb. 1918.

<sup>3</sup> Spanish text in *Periódico oficial*, 1 Jan. 1918.

In consequence the law shall punish severely and the authorities shall prosecute efficaciously every concentration or cornering in one or a few hands of articles of necessary consumption which has as its object to procure a rise in prices, every act or proceeding which eliminates or tends to eliminate free competition in production, industry, trade or public services, and every agreement or combination, however made, between producers, industrialists, traders and transport undertakings or any other service, to eliminate competition between them and oblige consumers to pay exaggerated prices.

Associations of workers formed for the protection of their own interests do not constitute monopolies.

Co-operative associations and societies which, in defence of their interests and the general interest, sell directly in foreign markets national or industrial products which are the principal source of wealth of the region in which they are produced and are not articles of primary necessity shall also not be considered as monopolies if they are under the supervision of the Federal Government or that of the State subject in the second case to the previous special authorisation of Congress. . .

### **Oaxaca**

Constitution of 4 April 1922<sup>1</sup>

. . . . .

### **Puebla**

Constitution of 8 September 1917<sup>2</sup>

4. The State guarantees to its inhabitants, whatever their condition :

IV Freedom to work and to dispose of the products of their work, in accordance with the prescriptions of the relevant laws.

VII Freedom of association and of meeting for any lawful object.

49. *Legislative powers of the State Congress in respect of village lands, forests, waters, small rural properties, agrarian credit, expropriation on grounds of public utility, health, education, labour and social welfare, etc.*

114-117. *Education.*

118. It is an obligation of the State to watch over the observance of the rules of public health and to combat epidemics which develop within its territory. The laws and provisions necessary to this end shall be enacted.

119. *Communications.*

120. *Establishment of Labour Office.*

### **Queretaro**

Constitution of 4 September 1917<sup>3</sup>

. . . . .

<sup>1</sup> Spanish text in *Periódico oficial*, 15 Apr. 1922.

<sup>2</sup> Spanish text in *ibid.*, 15 Sept. 1917.

<sup>3</sup> Spanish text in *Gobierno del Estado*, 9 Sept. 1917.

**San Luis Potosi**Constitution of 5 October 1917<sup>1</sup>

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**Sinaloa**Constitution of 22 June 1922<sup>2</sup>

.....

**Sonora**Constitution of 15 September 1917<sup>3</sup>

.....

**Tabasco**Constitution of 5 April 1919<sup>4</sup>

.....

**Tamaulipas**Constitution of 5 February 1921<sup>5</sup>

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**Tlaxcala**Constitution of 16 September 1918<sup>6</sup>

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<sup>1</sup> Spanish text in *ibid.*, 8 Oct. 1917.<sup>2</sup> Spanish text in *Periódico oficial*, 22 June 1922.<sup>3</sup> Spanish text in *Boletín oficial*, 16 Sept. 1917.<sup>4</sup> Spanish text in *Periódico oficial*, 5 Apr. 1919.<sup>5</sup> Spanish text in *ibid.*, 5 Feb. 1921.<sup>6</sup> Spanish text in *Gobierno del Estado*, 1 Oct. 1918.

### Veracruz-Llave

Constitution of 16 September 1917, as Amended 20 May 1920<sup>1</sup>

68. *Powers of the Legislature.*

XVIII. To promote everything necessary for the improvement of the elements of prosperity in the State.

XLIV. *Education.*

128. *Formulates principles to be followed by the State Legislature, substantially identical with those formulated by the Mexican Federal Constitution, article 123, Preamble and Clauses I-XXX, pp. 375-377.*

### Yucatan

Constitution of 5 January 1918<sup>2</sup>

30. XV. *Education.*

86. All men are born equal and therefore have a right to participate equally in social well-being. The essential mission of the State is to distribute well-being by assuring to all its inhabitants the free possession of the instruments of work and avoiding that any social group should exploit others by means of privileges, monopolies and the cornering of the land.

87. It is the function of the State to avoid the cornering of the land by means of agrarian laws. It is also the function of the State to take care that the worker enjoys the rights and guarantees granted to him by article 123 of the Federal Constitution.

88. The following are contrary to the general well-being and accordingly the law may neither authorise them nor tolerate them:

- I. The manufacture, introduction, and sale of intoxicating liquor in the State, with the exception of beer and cider.
- II. Spectacles which offend against public morals, including bullfights and cockfights.
- III. Brothels and the white slave traffic.
- IV. Unlawful games, including all those in which success depends on chance and not on lawful means known to both parties.
- V. All kinds of lotteries and raffles including the sale of tickets and numbers for lotteries and raffles outside the State.

The laws shall fix the penalties for those who infringe this prohibition.

89. It shall be the duty of the State to watch over the improvement and growth of agriculture, commerce and industry. The Executive, as the representative of the State may therefore, with the previous approval of Congress, legitimately act as merchant, industrialist, or agriculturalist with a view to introducing new processes into agriculture, commerce or industry or in order to defend the general well-being.

90. The State shall tend to eliminate indirect taxes in view of their burdensome character for the people and shall attempt to establish a single tax, that upon land.

91. The State shall attempt to reduce taxes to their simplest expression in order that the people may not be oppressed with unnecessary taxes.

<sup>1</sup> Spanish text in *Gaceta oficial*, 16 Sept. 1917.

<sup>2</sup> Spanish text in *Periódico oficial*, 11 Jan. 1918.

92. The Executive, as the representative of the State, may, with the previous approval of Congress properly take part in mercantile and agricultural companies in order to promote general prosperity.

93. The State shall create within the shortest possible period organised mutual help by establishing a perfect system of pensions, retirement allowances, insurances, and indemnities which guarantee the citizen against the chances of life.

94. Public beneficence shall be the exclusive responsibility of the Executive of the State which shall have an obligation to create in the State model hospitals, sanatoria for the insane, asylums for beggars, orphanages and other similar works. The State shall be the benefactor which distributes to all citizens the greatest possible well-being, preventing their exploitation and procuring for each work for his own benefit.

95. Private charity is permitted only with the intervention of the State. The law will fix the form and cases in which the State shall intervene for the guarantee of social rights.

96. The State shall not be subject to any limits in regard to the modification of private property for the general good.

### **Zacatecas**

Constitution of 12 January 1918<sup>1</sup>

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### **NEWFOUNDLAND**

Act of the Parliament of the United Kingdom to Empower His Majesty to Issue Letters Patent Making Provision for the Administration<sup>2</sup>

*24 Geo. V, c. 2., 21 December 1933*

Whereas an address has been presented to His Majesty by the Legislative Council and House of Assembly of Newfoundland in the terms set forth in the first schedule to this Act:

And whereas the Governor, the Legislative Council and House of Assembly of Newfoundland have passed an Act entitled "The Loan Act, 1933", which Act is in this Act referred to as "The Loan Act", and is set out in the second schedule to this Act:

Now, therefore, be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in

<sup>1</sup> Spanish text in *ibid.*, 13 Jan. 1917.

<sup>2</sup> Text from *Constitutions of All Countries*, Vol. 1, pp. 231-234.

this present Parliament assembled, and by the authority of the same, as follows:

1. (1) It shall be lawful for His Majesty by any Letters Patent under the Great Seal of the Realm to make provision for the suspension of the operation of the existing Letters Patent dated the 28th day of March, 1876, constituting the office of Governor of Newfoundland, and of the existing Letters Patent dated the 17th day of July, 1905, regarding the absence of the Governor, and to make provision for the administration of Newfoundland during the period while the operation of the existing Letters Patent is suspended on the basis of the recommendations of the Royal Commission referred to in the said address.

(2) Any Letters Patent issued under the foregoing sub-section may contain a provision reserving power to His Majesty to revoke or amend those Letters Patent, but before the passing of any further Letters Patent terminating the suspension of the operation of the existing Letters Patent or making any such altered provision for the administration of Newfoundland during the period while the operation of the existing Letters Patent is suspended as would empower the Governor to act in the administration of Newfoundland otherwise than on the advice of a Commission of Government constituted in accordance with the said recommendations, a draft of the further Letters Patent shall be laid before each House of Parliament for a period of 21 days during the session of Parliament and, if an address is presented to His Majesty by either House of Parliament against any of the provisions contained in the draft, no further proceedings shall be taken on the draft, without prejudice to the making of a new draft;

Provided that in reckoning any such period of 21 days as aforesaid, no account shall be taken of any time during which both Houses of Parliament are adjourned for more than 4 days.

#### FIRST SCHEDULE

##### *Address presented to His Majesty by the Legislative Council and House of Assembly of Newfoundland*

We, Your Majesty's most dutiful and loyal subjects, the Legislative Council and Assembly of Newfoundland, humbly approach Your Majesty praying that —

Whereas in the present emergency Your Majesty's Island of Newfoundland is unable from its own resources to defray the interest charges on the public debt:

And whereas the Royal Commission appointed by Your Majesty's warrant bearing the date the 17th day of February, 1933, to examine into the future of Newfoundland has recommended that for the time being, until such time as the Island may become self-supporting again, the administration of the Island should be vested in His Excellency the Governor acting on the advice of a specially created Commission of Government and that during such period Your Majesty's Government in the United Kingdom should assume general responsibility for the finances of Newfoundland and should, in particular, make such arrangements as may be deemed just and practicable with a view to securing to Newfoundland a reduction in the present burden of public debt:

And whereas Your Majesty's Government in the United Kingdom have signified their readiness subject to the approval of Parliament to accept the recommendations of the Royal Commission and have made detailed proposals for carrying those recommendations into effect:

Now, therefore, Your Majesty may be graciously pleased to suspend the Letters Patent under the Great Seal bearing the date at Westminster the 28th day of March, 1876, and Letters Patent under the Great Seal bearing the date at Westminster the 17th day of July, 1905, and to issue new Letters Patent which would provide for the administration of the Island, until such time as it may become self-supporting again, on the basis of the recommendations which are contained in the report of the Royal Commission and of which a summary is set out in the annex hereto:

And further that Your Majesty may be graciously pleased to cause to be laid before the



Parliament of the United Kingdom at its present session such a measure as may enable them to be given immediate effect.

#### ANNEX

*Extract from Report of Royal Commission appointed by His Majesty's  
Warrant bearing date the 17th day of February, 1933*

We therefore recommend that the Newfoundland Government, recognising that it is impossible for the Island to surmount unaided the unprecedented difficulties that now confront it, should make an immediate appeal for the sympathetic co-operation of Your Majesty's Government in the United Kingdom in the adoption and execution of a joint plan of reconstruction, of which the following would be the main features:

(a) The existing form of government would be suspended until such time as the Island may become self-supporting again.

(b) A special Commission of Government would be created which would be presided over by His Excellency the Governor, would be vested with full legislative and executive authority, and would take the place of the existing Legislature and Executive Council.

(c) The Commission of Government would be composed of six members, exclusive of the Governor, three of whom would be drawn from Newfoundland and three from the United Kingdom.

(d) The Government Departments in the Island would be divided into six groups. Each group would be placed in the charge of a member of the Commission of Government, who would be responsible for the efficient working of the Departments in the group, and the Commission would be collectively responsible for the several Departments.

(e) The proceedings of the Commission of Government would be subject to supervisory control by Your Majesty's Government in the United Kingdom, and the Governor-in-Commission would be responsible to the Secretary of State for Dominion Affairs in the United Kingdom for the good government of the Island.

(f) Your Majesty's Government in the United Kingdom would, for their part, assume general responsibility for the finances of the Island until such time as it may become self-supporting again, and would, in particular, make such arrangements as may be deemed just and practicable with a view to securing to Newfoundland a reduction in the present burden of the public debt.

(g) It would be understood that, as soon as the Island's difficulties are overcome and the country is again self-supporting, responsible government, on request from the people of Newfoundland, would be restored.

Letters Patent Suspending the Letters Patent, 1876, as Modified  
1905<sup>1</sup>, and Constituting a Commission of Government<sup>2</sup>

30 January 1934

.....

Royal Instructions to the Governor and Commander-in-Chief<sup>3</sup>

30 January 1934

.....

<sup>1</sup> *Constitutions of All Countries*, Vol. I, pp. 222-226.

<sup>2</sup> *Ibid.*, pp. 234-239.

<sup>3</sup> *Ibid.*, pp. 239-242.

## NICARAGUA

### Constitution of the Republic of Nicaragua<sup>1</sup>

22 March 1939

#### PRELIMINARY TITLE

##### *I. Bases of the State*

8. The Nicaraguan State renounces war as an instrument of national policy and recognises as its own the American international law for the organisation of peace.

#### TITLE II. ALIENS

22. Aliens shall enjoy in Nicaragua all the civil rights and guarantees accorded to Nicaraguans, subject to the limitations established by the laws.

They shall be obliged to respect the authorities, to obey the laws, and to pay all ordinary and extraordinary taxes to which Nicaraguans are subject.

24. Aliens may make claims against and demand compensation from the State only in the cases and in the form in which Nicaraguans may do so; neither Nicaraguans nor aliens may claim compensation from the State for injury to their persons or property resulting from acts other than those of legitimate authorities acting in their public character.

25. Aliens may not have recourse to diplomatic protection except in cases of denial of justice. The fact that an executory decision is unfavourable to the claimant does not constitute denial of justice. Those who act in violation of this provision shall lose the right to live in the country.

26. Aliens may hold public positions in the Departments of Public Welfare and Education, and positions for which special technical qualifications are required, but they may not hold positions which confer authority or jurisdiction.

#### TITLE IV. CONSTITUTIONAL GUARANTEES

##### *Chapter I. National Guarantees*

34. The Constitution and the laws protect and bind all inhabitants of the Republic equally. Special laws may be passed only when the nature of things makes it necessary.

35. The authorities are constituted to guarantee all inhabitants of Nicaragua life and personal integrity, their good name and reputation, and to secure the right of property and the fulfilment of the social duties of the State and of the individual.

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<sup>1</sup> English translation by courtesy of the American Law Institute; for Spanish text, see *Constitución política y Leyes Constitutivas de Nicaragua*, Managua, D.N., 1939, *La Gaceta*, 23 Mar. 1939, No. 68, p. 625, or Andrés María LAZCANO y MAZON: *Constituciones políticas de América*, Vol. II, pp. 209-265.

36. Human life is inviolable in Nicaragua; but pending the establishment of a penitentiary system, the death penalty may be imposed in the cases determined by law, for treason to the country in a foreign war; serious crimes of a purely military character; parricide; arson; highway robbery; piracy, and assassination.

37. Only for reasons of public interest or public service and by virtue of a law may taxes be imposed or their payment excused in whole or in part.

38. There are no personal privileges in the matter of taxes and other public burdens.

Taxes and imposts shall be levied in proportion to the value of the property or in accordance with the schedule or form prescribed by law.

In the taxation system preference shall be given to the levying of direct taxes.

39. Monopolies for private interest and all kinds of industrial or commercial corners are prohibited.

Only the law may establish State monopolies in the exclusive national interest.

40. Private persons are responsible to the authorities for the violation of the Constitution or the laws. Public officials are responsible for the same violations, and in addition for exceeding their powers or for failure to exercise them.

41. No-one is bound to do that which the law does not command, nor is he prevented from doing that which the law does not prohibit.

50. The State does not recognise the legal existence of political parties of international organisation. Persons who belong to such parties may not hold any public office. The only exception is those parties which advocate the union of Central America.

51. All services shall be compensated, except those gratuitously rendered by virtue of law or of a sentence founded on law.

52. For purposes of general interest the State may direct the exploitation and management of public utilities.

53. The State may nationalise public utilities in accordance with law and upon prior indemnity.

55. The enactment of proscriptive laws, or of laws imposing an infamous punishment or a sentence for more than twenty-five years, is prohibited.

56. The granting of academic and professional titles is an exclusive function of the State, which shall establish the necessary proofs and requirements to obtain them.

57. The practice of professions by foreigners shall be determined on the basis of possible reciprocity. The law shall regulate this provision.

58. The Civil Registry is under the exclusive control of the State.

59. Public cemeteries are secular in character. The ministers of any religious denomination may observe in them their respective rites.

60. There shall be no confiscation of property, except against the nationals of an enemy country which has confiscated the property of Nicaraguans.

The right to recover property confiscated in contravention of this guarantee shall never be barred by limitation.

In no case shall property be sequestered or seized for reasons or offences of a political character.

The authorities violating these provisions shall be liable at all times with their person and property for the damage inflicted.

61. All the artistic or historic wealth of the country, whoever the owner may be, constitutes the cultural treasure of the nation, and shall enjoy the special protection and care of the State. The latter may prohibit its exportation and transfer and may decree whatever legal expropriation may be necessary for its defence and preservation.

62. The State recognises the freedom of contract, commerce, and industry.

The law shall prescribe the requirements governing their exercise and the guarantees which are to be accorded to them. When public security or necessity requires, the law may establish limitations or reservations on said exercise, or may

authorise the Executive Power to establish them, provided that in no case shall such restrictions have a personal or confiscatory character.

### *Chapter II. Social Guarantees*

63. Property is inviolable. No one may be deprived of his own property except by judicial decree, a general tax, or for reasons of public utility or social interest, determined by law or by a judgment founded on law, and upon due compensation beforehand.

In case of civil war, internal disturbance, or public disaster, the competent authorities may make use of private property to the extent required by the public good, without affecting, however, the right to subsequent indemnification.

64. The State guarantees and protects intellectual property, the rights of authors, inventors, and artists. The law regulates the exercise and the duration of such rights, and if their expropriation is decreed it shall be on the basis of prior indemnification at the appraised value.

65. Property, because of its social function, implies obligations. The elements, nature, and extension thereof shall be determined by law.

66. The exercise of property rights is subject to the limitations imposed by the maintenance and progress of the social order. In harmony with this principle, the law may burden property with obligations or servitudes of public benefit in favour of the general interests of the State, public health, and the health of its citizens.

67. Property, whoever the owner may be, is governed exclusively by the laws of the Republic, and shall be subject to the support of public burdens, as provided by the Constitution and the laws.

68. Foreigners may not demand special treatment with regard to property.

69. For reasons of public or social interest, the law may establish restrictions or prohibitions in regard to the acquisition and transfer of certain kinds of property, because of its nature, condition, or location in the territory.

70. The State shall seek the necessary division of uncultivated lands, and shall favour the preservation and increase of medium and small rural estates.

71. The application of any sum appropriated in accordance with the law for social purposes may not be changed or modified by any law or act of the Government under any pretext whatsoever. The State shall supervise the administration and expenditure of such appropriations.

72. Every person may freely dispose of his property for any legal purpose; but any entailment of property or any creation of estates in mortmain is prohibited, except where it applies to family estates or charitable institutions.

75. Penalties shall be imposed only on the person who has committed the offence.

76. Prisons are establishments of security and social defence. They shall serve as a means of preventing crime, to re-educate the prisoner, and prepare him for work. Any act of cruelty or torture against the accused or prisoners is prohibited.

77. Marriage, the family, and maternity, are under the protection and defence of the State.

78. The State shall uphold the organisation of the family on the legal basis of marriage.

79. The State and the municipalities shall supervise the health and social betterment of the family.

80. Maternity has a right to the protection of the State.

81. The education of children is the primary duty and natural right of the parents, in order that they may obtain the greatest physical, intellectual, and social development.

Parents without economic resources are entitled to solicit the aid of the State for the education of their children.

82. The State shall endeavour to provide special assistance to large families.

83. The law shall give to illegitimate children the same consideration as to those who are legitimate for their physical, spiritual, and social development.

84. The civil laws shall regulate the investigation of paternity.

85. The law shall provide the organisation and regulation of the family estate, on the basis that it shall be inalienable, free from attachment, and exempt from all public burdens.

86. Public education shall be given preferential attention by the State.

87. The educational system is under the technical supervision of the State.

88. Primary education is compulsory, and where given at the expense of the State or public corporations it shall be gratuitous and secular.

89. The State shall promote education in its secondary and higher grades.

90. The law shall regulate professional training and shall determine the professions which require a previous licence for their practice, as well as the formalities necessary to obtain it.

91. The State shall promote the technical education of the workers and schools for agricultural and industrial training.

92. The moral training of the child shall be taken care of in all schools, and an endeavour shall be made to develop in them civic sentiments, and personal and professional values.

93. Professorship in official educational institutions is a public career, and is entitled to the rights and benefits which the law provides.

94. Usury is prohibited. The law fixing the maximum limit of interest on money is of a public order. The same law shall determine the penalties which shall be applied to the violators.

95. The State shall organise and promote State Pawnshops and Savings Banks.

96. Work is a social duty. Every inhabitant of the Republic is obligated to apply his physical and intellectual energies for the benefit of the community. Within this concept, the State guarantees the freedom of work, every person being at liberty to engage in the profession, industry, or trade of his own choice, provided it is not opposed to morality, public health or public security.

Vagrancy is punishable.

97. Efforts shall be made to provide all inhabitants, and especially citizens, with the opportunity to earn a living by productive labour.

98. Labour in its various forms, industry, public aid, and social welfare are under the protection of the law.

99. Agricultural or industrial enterprises located outside the urban school zone and having more than thirty children of school age, are obliged to maintain a school, adequate for primary elementary education.

100. The law shall recognise, with regard to those persons having some connection with work, whether as labourers or employees, the following:

(1) The independence of their moral and civic conscience;

(2) A compulsory weekly day of rest;

(3) The maximum working day, determined and regulated by the law, in accordance with the nature of the work;

(4) A minimum wage or salary, in relation to the cost of living and to the conditions and needs of the various regions, sufficient to ensure the worker a minimum of comfort, compatible with human dignity;

(5) The payment of all wages or salaries within the time agreed upon in the contract, in legal national currency, on a work day, at the place where the worker renders his service; payment with goods, promissory notes, chips, or other substitute for money, is prohibited;

(6) The payment of wages by periods not exceeding fifteen days;

(7) Compensation for accidents arising out of employment, in the cases and form determined by law;

(8) Regulation of the work of women and children;

- (9) Medical and hygienic assistance to the workers and to pregnant women, assuring the latter, without loss of pay, a period of rest before and after childbirth;
- (10) Greater compensation for night work, except where done in regular shifts;
- (11) The non-attachment of the minimum wage;
- (12) One month's vacation with pay after one year of continuous work.

101. The following conditions shall be void and shall not bind the contracting parties in connection with work:

- (1) Any stipulation which restricts or modifies the guarantees and rights recognised by the Constitution with regard to every man and citizen;
- (2) Those that involve the direct or indirect obligation to acquire consumer goods at any particular store or place;
- (3) Those that stipulate in the contract a term greater than two years, whenever such a term is prejudicial to the worker.

102. Conciliation tribunals shall be established to settle in an equitable manner the differences arising between employers and employees.

103. The law shall favour the hygienic and economic housing of the worker, as well as the construction of dwellings and settlements which meet these conditions.

104. The State shall undertake the creation of a national institute for social insurance.

105. The law shall regulate the manner of establishing the insurance fund in favour of wage earners, on the basis of a reasonable contribution on the part of the beneficiary and the employer to cover the risks of illness, disability, old age, and unemployment.

### *Chapter III. Individual Guarantees*

106. All Nicaraguans are equal before the law. Women are excepted because of the differences inherent in their nature and in the interest of the family.

107. There shall be no privileges by reason of birth, nobility, race, or social condition, nor any distinction other than those based on ability or merit.

109. The State guarantees individual liberty. This liberty may not be restricted except in conformity with the laws.

117. Any restraint of personal liberty for debts or purely civil obligations is prohibited, except to enforce a judicial decree or order in the cases and for the period of time established by law.

119. Every person has the right to demand protection in order that the guarantees established by the Constitution or special laws enacted under the Constitution shall be given effect, whenever such person is unduly restrained from the enjoyment of said guarantees by laws, decrees, resolutions, orders, commands, or acts of any authority or official, or their agent.

120. Every person may freely move throughout the national territory and choose his residence and domicile therein, and may not be compelled to change it, except by virtue of a final judgment. The right to emigrate and immigrate is recognised, within the limitations prescribed by law.

121. The rules and conditions under which foreigners may be expelled from the national territory shall be determined by law.

123. The State guarantees the inviolability of the home. The dwelling of any person in Nicaraguan territory may be forcibly entered only by the authorities in the following cases:

- (5) For any visit or inspection for statistical, sanitary, or hygienic reasons.
- .....

124. The right to assemble peacefully, without previous permission and without arms, is guaranteed.

125. The right to assemble in the open air, and the right to make a public demonstration, shall be subject to police regulations.

126. All persons have the right to form unions or associations, whatever their object may be, provided the association is not declared unlawful by law; however, it shall be the function of the State to authorise the establishment of corporate, moral, cultural, or economic organisations.

127. Every person shall have the right to address petitions or claims in writing to the public officials and authorities, to have such petitions and claims decided upon, and to be informed of the action taken.

This right may be exercised individually or collectively.

128. No-one shall be molested or persecuted on account of his opinions; but those who express opinions contrary to public order, to the fundamental institutions of the State, to the republican and democratic form of Government, to the established social order, to morality and good custom, or which may injure a third party, shall be subject to the penalties of the law.

129. The State guarantees the freedom of the press and of speech. Every person has the right to express freely his ideas and opinions, by word of mouth, in writing, in print, pictorially, or by any other method of publication, but shall be liable for crimes or abuses committed in the exercise of this right, in the form and in the cases determined by law. Liability attaches to both the author and publisher or broadcaster of the punishable publication or broadcast, and they shall be jointly answerable for any indemnification due to the injured person.

130. There shall be no previous censorship; but the law may provide exceptions to this rule, in regard to motion picture films and public presentations or performances, for the protection of minors and good customs. The law may likewise prescribe measures against immoral and pornographic literature and against war propaganda or violent methods for the subversion of the political or social order.

133. The State guarantees the freedom of teaching.

134. Sciences, letters, and art, as well as the teaching thereof, are free, as long as they are not contrary to good customs and public order.

135. Liberty of conscience, the expression of any religious belief, and the practice of any creed not opposed to morality, good customs or public order, are guaranteed. Acts of worship incompatible with life and the physical integrity of the human person are excepted.

Acts contrary to morality or subversive of the public order which are done for the purpose or under the pretext of practising a religion are subject to general laws.

## TITLE V. THE LEGISLATIVE POWER

### *Chapter I. Its Constitution and Attributions*

163. The following attributions belong to the Legislative Power divided into separate Chambers:

(6) To declare by a majority of two-thirds of the votes of the total number of its members, when the abnormal circumstances of the country so require, a state of economic emergency, fixing its duration.

The declaration of a state of economic emergency shall, according to the terms of the declaration, suspend some or all of the constitutional guarantees provided for in articles 43 to 62, exclusively for objects of general relief and justice.

The laws enacted in virtue of this declaration by the Legislative Power, or if it is in recess by the Executive Power, cannot remain in force in disregard of the said constitutional guarantees for longer than the time fixed by Congress.

Emergency decree laws enacted by the Executive Power shall be approved by the Council of Ministers and submitted to the Legislative Power within the first fifteen days of its next ordinary sessions:

(8) To authorise the Executive to conclude contracts, negotiate loans and exercise other functions within the limits of the Constitution;

(10) To regulate commerce by sea and by land;

(19) To approve or disapprove contracts concluded by the Executive with individuals or companies concerning loans, colonisation, navigation and other works of general utility, in all cases in which, the Constitution so permitting, they involve privileges for limited periods, or pledge or dispose of the property of the Nation, or dispose of sums not voted in the budget;

(21) To authorise the foundation of banks of issue and the establishment of gratuity funds for widows and orphans.

164. The following attributions also belong to Congress divided into separate Chambers when the initiative is taken by the Executive Power:

(2) To decree prizes and grant privileges for limited periods to the authors or inventors of works of general utility and to those who have introduced new industries or improved existing ones;

(3) To award grants and prizes for objects of public utility which tend to establish new industries or develop agriculture;

(4) To decree the alienation or lease of public property and its application to public uses or authorise the Executive to do so on proper bases. The public revenues and taxes may not be alienated;

(5) To decree loans.

## TITLE VI. THE EXECUTIVE POWER

### *Chapter II. The Duties and Attributions of the Executive Power*

219. The President of the Republic as supreme administrative authority is competent:

(12) To exercise in accordance with the law due inspection over banks and other credit establishments;

(13) To direct, regulate and inspect public instruction and physical education; to spread popular education and combat illiteracy;

(16) To exercise the supreme direction of police and public health;

(17) To conclude administrative contracts for services and the execution of public works, in accordance with the fiscal laws, and those embodying agreements with private individuals or companies for purposes of general interest;

Contracts relating to loans, colonisation or navigation, or involving privileges for limited periods or pledging or disposing of the property of the nation or sums not voted in the budget must be approved by Congress in order to be valid;

(18) To grant patents, to guarantee literary property and property in useful inventions and discoveries in accordance with the law;

(22) To provide for the national ownership and the registration of vessels;

(24) To enact appropriate measures for the organisation and maintenance of a statistical service;

(25) To exercise the right of inspection and supervision over institutions of common utility in order that their property and revenues may be conserved and properly applied and in order that the will of their founders may be fulfilled in all essential respects;

(27) To promote immigration in accordance with the law;

(29) To promote and protect labour, agriculture, and commerce.



## TITLE VIII. PUBLIC FINANCE

*Chapter I. National Property*

270. Land, forests, waterways, and in general all natural springs, belong to the State, without prejudice to rights lawfully acquired. The law shall prescribe the conditions for the utilisation thereof by the State and for the concession thereof to private individuals in fee or under any other title.

271. The riches of the subsoil belong to the State. The working thereof shall not be conceded to private individuals except on the basis of a share in the profits. Stone for building or for ornamental purposes, pozzuolana, sand, slate, clay, lime, and other materials used as a rule for building, shall be exceptions to this rule.

274. The Executive must be authorised by law to dispose of State property and to borrow on the credit of the Nation. Any operation which constitutes an infringement of this rule shall be void and shall not be binding on the State.

275. All contracts for public works shall be adjudicated by public auction. The law shall lay down regulations respecting this.

276. The State guarantees the payment of the public debt contracted in conformity with the Constitution and the laws. The appropriations requisite to pay the interest and capital shall always be included under expenditure in the estimates and shall not be the subject of discussion, provided that they are strictly in conformity with the laws which authorised the issue of the loans in question.

277. Recourse shall not be had to borrowing except in the event of extraordinary requirements or for the extinction of another loan, the consolidation of debts, purposes of production, or purposes connected with national defence.

The law shall lay down rules respecting the conditions and purposes for which loans may be used.

*Chapter IV. Autonomous Bodies or Decentralised Services*

297. The services which constitute the industrial and commercial domain of the State may be administered by autonomous governing bodies or boards of directors if provision to this effect is made by law for the greater efficiency of the services concerned and in the public interest.

298. An absolute majority of votes in each legislative chamber shall be requisite for the creation of autonomous bodies of this kind. Any existing bodies of this kind shall not be abolished except by a two-thirds majority of the total number of members of each chamber.

299. The Act creating or constituting autonomous bodies shall conform to the following rules:

(1) The autonomous governing bodies or boards of directors shall consist of not less than three members appointed by the Executive in Council of Ministers.

(2) Private capital may be used in the constitution and development of the property of the autonomous bodies, provided that the Executive makes provision to this effect by a law, which shall prescribe, and lay down rules respecting, the participation to which shareholders will be entitled in such cases on the governing bodies or boards of directors.

(3) The autonomous bodies shall not be entitled to carry on any operations outside the sphere expressly assigned to them by law; they shall not use their resources for purposes other than their normal activities.

(4) All autonomous administrative bodies shall publish periodical statements showing clearly their financial situation.

(5) On the expiry of their term of office the governing bodies or boards of directors shall give an account of their actions to the Executive, which shall grant or refuse approval in conformity with a report of the Court of Accounts.

(6) The members of the governing bodies or boards of directors of the autonomous bodies shall not be appointed to posts which depend directly or indirectly on the institution of which they form part.

#### TITLE IX

##### *Sole Chapter. National District. Departmental and Municipal Administration*

311. The establishment of tolls or restrictions on traffic between municipalities, including the National District, is prohibited; the imposition of inter-municipal transit or transportation taxes under any title whatsoever which would be a burden upon or interfere with the free movement of goods, persons or vehicles is likewise prohibited.

#### TITLE X

##### *Sole Chapter. Public Officials*

318. Any persons who combine to suspend work in the public service or in a public utility service shall be liable to dismissal in addition to the other consequences of such action prescribed by law.

Employees of autonomous bodies and employees of private undertakings which provide public utility services shall be subject to the same penalties.

322. Public officials shall be entitled to annual holidays without deduction of pay and a pregnant woman shall be entitled to three months' leave of absence with full pay.

#### TITLE XII

##### *Sole Chapter. The Army*

343. The State guarantees protection and pensions to members of the army who become incapacitated in the course of military service or in the defence of the country and of public order, and likewise to the families of those who lose their lives in such service.

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## PANAMA

### Constitution of the Republic of Panama<sup>1</sup>

2 January 1941

#### TITLE I. INTRODUCTORY PROVISIONS

7. The Nation has the right of eminent domain over all the territory of the country, including territorial waters, the soil and the subsoil, and over all property within its territory.

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<sup>1</sup> English translation by courtesy of the American Law Institute; for Spanish text, see *Constitución de la República de Panama*, 1941 or Andrés María LAZCANO Y MAZON: *Constituciones políticas de América*, Vol. II, pp. 267-305.

## TITLE II. NATIONALITY AND ALIENAGE

21. Aliens shall enjoy in Panama the civil rights and guarantees granted to nationals, subject to the exceptions which were established in this Constitution or in the law. . .

22. The capacity, recognition and legal régime applicable to foreign companies and other legal persons shall be governed by Panamanian law so far as acts executed under the jurisdiction of the Republic are concerned.

23. The immigration of aliens shall be regulated by law in accordance with this Constitution and with treaties.

The State will take care that those who immigrate are healthy elements, workers who are adaptable to the conditions of national life and capable of contributing to the ethnic, economic and demographic improvement of the country.

The following are prohibited immigrants: negroes whose mother tongue is not Spanish, the yellow race, and the indigenous races of India, Asia Minor and Northern Africa.

## TITLE III. INDIVIDUAL AND SOCIAL RIGHTS AND DUTIES

24. The authorities of the Republic are constituted for the defence of the rights of the Nation; for the protection of the life, honour, and property of its citizens wherever they may be and of foreigners under its jurisdiction; and to ensure the fulfilment of all duties imposed by the Constitution and the laws upon the State and upon individuals.

26. All Panamanians are equal before the law. There shall be no personal privileges or exemptions.

30. The following persons may impose punishment without previous trial, in the cases and within the strict limits laid down by law:

(3) Ship captains, who have, while not in port, the same power to repress crimes committed on board.

31. There shall be no death penalty in Panama. Neither shall the penalty of exile be imposed on Panamanians.

32. Under no circumstances shall the penalty of confiscation of property be imposed.

35. Prisons are places of safekeeping and expiation, not for cruel punishment; therefore, any severity not necessary for the custody or correction of the prisoners is prohibited.

38. The profession of all religions, as well as the practice of all cults, is free, without any other limitation than respect for Christian morals and public order. It is recognised that the Catholic religion is the religion of the majority of the inhabitants of the Republic. It shall be taught in the public schools, but such instruction shall not be compulsory for students whose parents or guardians so request. The law shall make provision for the assistance to be given to said religion, and may entrust missions to its ministers among the native tribes.

39. Every person may freely express his thoughts, orally or in writing, without previous censorship. Legal responsibility shall be incurred, however, when attacks are made through any of these means upon the reputation or honour of persons or against social security or public tranquillity.

40. Every person may freely move through the territory of the Republic and change his residence, without any restrictions other than those imposed by laws or regulations of a general character on transit, the enforcement of judicial decrees, public health, or immigration.

41. All inhabitants of the Republic have the right to assemble peacefully without arms for lawful purposes.

When open-air demonstrations or assemblies are held, previous notice shall be given to the local administrative authority as provided by law. The authorities may take police measures to prevent or repress abuses in the exercise of this right when the manner in which it is exercised causes or may cause a disturbance of the public order or a violation of the rights of other persons.

42. The formation of corporations, associations, and foundations not contrary to morality or the legal order, is permitted. Associations and foundations may secure their recognition as juridical persons.

43. All persons are free to choose any profession or trade. The law may require certificates of competence and may regulate the practice of professions.

The authorities shall supervise professions and trades in so far as they may affect public morality, security, and health.

45. The freedom of contract is guaranteed, subject to the limitations and restrictions established by law for reasons of social order.

46. Every person has the right to present respectful petitions, advice, and complaints to the public officials, whether for reasons of social interest or of private interest, and to receive a prompt decision.

47. Private property and all other rights acquired under a just title in accordance with the civil laws, by natural or juridical persons, are guaranteed, and may not be abridged or violated by subsequent laws.

When the application of a law enacted for reasons of public utility or social interest results in a conflict between individual rights and the necessity recognised by the same law, the private interest shall yield to the public or social interest.

Private property implies obligations by reason of the social function which it must fulfil.

48. Expropriation may be effected by judicial decree and upon a prior just indemnification, for reasons of public utility or social interest defined by the Legislature.

In case of war, grave disturbance of the public order, epidemics, disasters or calamities and other cases of emergency requiring prompt action, expropriation or seizure may be decreed by the Executive Power and indemnification need not be made beforehand. When the return of the object seized is practicable, the seizure shall be temporary, and only during the existence of the circumstances which brought it about.

The State shall always be responsible for any expropriation made in this way by the Executive Power, or for the damage or loss caused by the taking, and shall pay the full value thereof within five years.

49. Every author or inventor shall enjoy the exclusive ownership of his work or invention for the period and in the form established by law.

50. No-one is bound to pay a tax or impost not established by a law of a general character and whose collection is not made in the form prescribed by law.

52. The law shall determine all matters concerning the civil status of persons, and their rights and duties, subject to the following rules:

(1) The family shall be under the special protection of the State;

(2) Marriage is based on the equality of rights for both spouses and may be dissolved by divorce in accordance with the provisions of law;

(3) The paternal power is the aggregate of rights and duties which parents have with relation to their children. Such power shall be defined by the law, and its exercise shall be regulated on the basis of social interest and for the benefit of the children;

(4) Parents have the same duties towards children born out of wedlock as they have towards those born in wedlock;

(5) The law shall regulate the investigation of paternity;

(6) The law shall provide whatever measures are necessary and appropriate for the due protection of maternity and infancy, and for the moral, intellectual, and physical development of childhood and youth;

(7) The State shall supervise the social and economic development of the family, and may establish the family estate for poor working and rural classes, the property of which it shall be composed to be determined on the basis that it shall be inalienable and free from judicial attachment.

53. Work is a social obligation and shall be under the special protection of the State.

The State may intervene by law to regulate the relations between capital and labour, in order to bring about greater social justice, in such a way that, without unjustified injury to any of the parties, it may ensure the worker the minimum living conditions and the rights and rewards which are accorded to him for reasons of public and social interest, and that it may ensure capital a fair return on its investment.

The State shall assist the small independent producer to obtain from his labour or industry sufficient income for his needs, and it shall, in a special way, provide for the welfare and progress of the rural and working classes.

54. The right to strike is guaranteed, except in public services or when the only purpose is solidarity or sympathy.

55. Public assistance is a function of the State.

The law shall determine the form and the cases in which it shall be given.

56. The service of national education is an essential duty of the State. It is an imperative obligation to provide the necessary facilities for the education of the natives in order to assimilate them into society.

Primary education is compulsory; and public primary, normal, vocational, and secondary education shall be gratuitous.

The fact that normal, vocational, and secondary education are gratuitous does not prevent the establishment of a registration fee.

Schools, colleges, institutes and other private centres of education shall be subject to the inspection and supervision of the State.

Panamanians economically handicapped shall be given access by the State, under proper legislation, to all degrees of education, on the sole basis of aptitude and vocation.

57. The recognition of professional and academic titles or degrees corresponds to the State.

## TITLE V. LEGISLATIVE POWER

88. The following are legislative functions of the National Assembly :

(4) To approve or disapprove contracts or agreements conducted by the President of the Republic with individuals, companies, undertakings or political entities in which the Nation has an interest if they were not previously authorised or if the formalities prescribed by the National Assembly have not been fulfilled or if any of the provisions which they contain are not in accordance with the legislation authorising them;

(5) To authorise the Executive Power to conclude contracts, negotiate loans, alienate the national property and exercise other functions within the limits of the Constitution. When contracting loans the Executive Power may not pledge as guarantee property, revenues, taxes or contributions other than those which have been specifically authorised by the National Assembly in the authorising legislation;

(10) To promote and encourage public education, the sciences and the arts;

(11) To decide upon the erection of monuments by the State and the construction of public works with national funds;

(12) To encourage useful and beneficent undertakings, worthy of stimulus and support, and to decide upon the assistance to be given to this end ;

(15) To establish taxes, contributions, rentals and revenue-producing official monopolies to provide for the public service;

(16) To decree the alienation of national property or its application to public uses.

#### TITLE VII. EXECUTIVE POWER

109. The following are attributions of the President of the Republic:

(6) To conclude administrative contracts for services and the execution of public works in accordance with the fiscal laws and with the obligation to report to the National Assembly;

(13) To direct, regulate and inspect national public education in accordance with the laws relating thereto.

#### TITLE XII. NATIONAL ECONOMY AND PUBLIC FINANCE

145. The following properties, rights, etc., belong to the Republic of Panama:

(5) Salt works and mines of all kinds, which shall not become private property, provided nevertheless that working rights may be granted to private individuals or bodies corporate in conformity with the law;

(6) Native buried treasure, the exploration and exploitation of which shall be regulated by law;

(7) All property and rights subject to the jurisdiction of the Republic which do not constitute part of the private patrimony of any individual or body corporate.

146. The following belong to the public domain and consequently shall not be appropriated by private individuals:

(1) Maritime waters, lakes and streams; the foreshore and the banks of lakes and streams; estuaries. The utilisation of all such property is free to all, subject to the regulations laid down by law;

(2) Land set apart now or hereafter for public communication services (land, telegraph and telephone);

(3) Land and waters set apart now or hereafter for public services for irrigation, drainage, dykes and aqueducts;

(4) All other property which is declared by law to belong to the public domain or to be set apart for public use.

147. In the case of property covered by Nos. 5 and 6 of article 145 and Nos. 1, 2 and 3 of article 146, with respect to which private property rights acquired under previous legislation exist at the date of the coming into operation of this constitutional reform, the present owners shall retain right of usufruct for a period of twenty years under the conditions laid down in the acts subject to which the property in question was acquired; nevertheless, ownership with deduction of usufruct shall revert to the State without payment of compensation. On the expiry of the said period of twenty years the owners shall retain the right of usufruct subject to the conditions laid down by the laws to be enacted in virtue of this provision and in virtue of articles 145 and 146.

148. All the artistic and historic riches of the country, whoever may be the owner thereof, constitutes the cultural treasure of the Nation and shall be placed under the protection of the State, which may prohibit the destruction or exportation and regulate the sale thereof, and may order expropriation where it considers this necessary for the protection of the said artistic and historical riches. The State shall protect likewise localities noted for their natural beauty or for their recognised artistic or historical importance.

149. The cultivation of the soil constitutes a duty of the owner to the community; in order that its development may not be impeded or checked, cultivation may be regulated by law in cases where this is necessary for reasons of national economy or social interest.

Hunting and fishing shall be free, subject to regulations to be laid down by law.

150. Without prejudice to the provisions laid down under No. 7 of article 52, property may be disposed of freely and shall not be encumbered with irredeemable charges.

Nevertheless, temporary limitations on the right of alienation and conditions or provisions suspending or delaying the redemption of charges shall continue in operation for a period not exceeding twenty years.

151. No foreign Government or foreign official or semi-official institution or authority may acquire ownership, possession, use or usufruct over any part of the national territory, except as may be provided now or hereafter in international agreements and public treaties.

152. No foreign individual or body corporate and no national body corporate whose capital is wholly or partly of foreign origin may acquire ownership in national lands situated less than 30 kilometres from our land frontiers or in islands under the jurisdiction of the Republic. Nevertheless, rights already acquired at the date of the coming into operation of this provision over lands and islands covered by the first part of this section shall be respected, provided that such property may be expropriated at any time, subject to payment of fair compensation.

153. The State shall provide the necessary administrative services and may undertake the provision of public utility services. It may likewise regulate the charges of private public utility undertakings and the prices of articles of prime necessity, if this is requisite in the interests of the community, and may intervene by legislation in the supervision and co-ordination of industries and undertakings.

The meaning of the expression "public utility undertaking" shall be laid down by law.

Monopolies directed by private interests shall be prohibited.

154. The law shall regulate gaming and all activities which may give rise to betting, irrespective of the system involved. The operation of games of hazard and chance shall be carried on exclusively by the State or under administration concessions subject to inspection and supervision by the Executive and to the imposition on the concession holders of the restrictions necessary to ensure that the interests of the national economy are not prejudiced. Official lotteries administered by the State for charitable and social welfare purposes may be established by law.

156. The right to make fiduciary issues of any kind which are non-convertible is vested in the State and is not transferable. The right to make fiduciary issues which are legal tender is vested in the State, but may be transferred to official or private banks of issue, provided that such banks are under the supervision of the State in all matters relating to the issue, in the manner to be prescribed by law.

157. Paper money which is non-convertible shall not be issued in the Republic.

162. Taxes and contributions may be established by law for the defrayal of the expenses of public administration.

Taxes and contributions, the purpose of which is not revenue producing, may also be established by law for reasons of an economic character.

164. Official monopolies, constituting a revenue producing excise tax, may be established by law on imported articles which are not produced in the country and on the purchase and distribution of those natural products of the country which are not worked by individuals or bodies corporate in a manner which is advantageous to the community; it shall be a condition of such monopolies that a fair and equitable price shall be paid to the producer.

In establishing a monopoly in virtue of which any individual or body corporate is deprived of the right to carry on a lawful industry or business, the State shall

pay in advance a sum equal to the value of the industry or business in question in the Republic at the time of the institution of the monopoly.

167. Official or semi-official banks operating as autonomous bodies subject to State supervision may be set up and regulated by law. The relevant laws shall determine the subsidiary liabilities of the State with respect to the liabilities contracted by such banks.

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## PARAGUAY

### Constitution of the Republic of Paraguay<sup>1</sup>

10 July 1940

#### GENERAL DECLARATION

6. The principles, guarantees, obligations and rights proclaimed by this Constitution may not be altered by the laws which regulate its exercise. Every law, decree or regulation which is in opposition with the provisions thereof shall be null and of no effect.

7. Equality is the basis of public charges. The Government shall provide for the expenses of the State with the product of the taxes, contributions and rates created by law; the sale and hire of public lands; the exploitation of mines; the profits of the State-controlled public services and monopolies and loans and other credit operations.

8. Within the territory of the Republic goods of national production or manufacture shall circulate free of all duties. The navigation of the internal rivers is free for all flags, subject to the regulations laid down by the Chamber of Representatives.

9. The Government will encourage American and European immigration and will regulate the entry of foreigners into the country.

10. Primary education is compulsory and gratuitous. The Government shall promote secondary, professional, and university education.

11. The care of the health of the people, and public assistance, as well as the moral, spiritual, and physical education of youth, are fundamental duties of the State.

12. The Government will strengthen its relations of peace and commerce with foreign nations by means of treaties inspired by the national interest and the principles of public law proclaimed by this Constitution. It will give special attention to the policy of collaboration and solidarity with the American peoples.

13. In no case shall private interests prevail over the general interest of the Paraguayan nation. All citizens shall be obliged to co-operate for the good of the State and of the Paraguayan nation. The law will determine the cases in which they will be obliged to accept public functions in accordance with their capacities.

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<sup>1</sup> English translation by courtesy of the American Law Institute; for Spanish text, see *Boletín de la Biblioteca del Congreso Nacional*, No. 36, July-Aug. 1940, pp. 871-895, or Andrés María LAZCANO y MAZÓN: *Constituciones políticas de América*, Vol. II, pp. 307-330.



14. The exploitation of man by man is proscribed. In order to ensure every worker a standard of living compatible with human dignity, labour contracts and social security, as well as conditions of safety and hygiene in places of employment, shall be under the supervision and regulation of the State.

15. The State will regulate the national economic life. It alone may issue money, establish standards of weights and measures, and control trade marks. Combinations which tend to the creation of monopolies in consumable goods, which lead to an artificial rise or fall in prices or which prevent freedom of competition are not permitted. The manufacture of and dealing in articles which are dangerous to health and to good morals are prohibited. The law will lay down penalties for acts which infringe these principles. The State may nationalise public services, subject to the payment of an indemnity, and may establish monopolies for the production, distribution and sale of articles of primary necessity.

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17. . . Strikes by public officials and the collective abandonment of their posts are both prohibited.

#### RIGHTS, DUTIES, AND GUARANTEES

19. All the inhabitants of the Republic enjoy the following rights, in accordance with the laws which regulate their exercise: to choose a profession; to work and engage in any lawful business or industry, subject to the restrictions imposed by law for social and economic reasons of national interest; to assemble peacefully, to petition the authorities; to publish their ideas through the press without previous censorship, whenever they refer to matters of general interest; to dispose of their property; to form associations for useful purposes; to practice freely their own religion; to learn and to teach.

20. The law shall determine the professions which require a licence for their practice, the conditions which must be satisfied to obtain such licence, and the authority who is to issue it. The educational system and its supervision are under the control of the State.

21. The Constitution guarantees private property, whose content and limits shall be determined by law, taking into consideration its social function. No-one may be deprived of his property except by virtue of a decision founded on law. The ownership of all kinds of property may be juridically transferred by expropriation for a reason of social utility defined by law, which shall likewise determine the form of indemnification. The law may fix the maximum area of land which may be owned by a single individual or corporation legally constituted, and the surplus shall be sold at public auction or expropriated by the State for distribution.

22. All the inhabitants of the Republic are bound to earn their living by lawful work. Every Paraguayan home should stand on its own piece of land.

23. The civil rights of women shall be regulated by law, with due consideration for the unity of the family, the equality of man and woman and the differences in their respective functions in society.

24. No personal service may be exacted except by virtue of law. Every author or inventor is the owner of his work, invention, or discovery for the period of time provided by law.

28. Prisons must be healthful and clean. Whipping and torture of all kinds are prohibited.

30. Private acts which in no way affect public order or morals, or prejudice third parties, are exempted from the authority of the magistrates. No inhabitant shall be compelled to do what the law does not command, or prevented from doing what it does not prohibit. The law may authorise the Executive or specified administrative authorities to issue general police regulations and to impose the

corresponding sanctions with respect to the matters and within the limits fixed by the same law.

31. The publication of books, pamphlets, and newspapers shall be regulated by law. Anonymous publication is prohibited.

32. The State shall control and regulate the organisation, the functioning, and the activities of groups or entities of a public character.

33. . . All the inhabitants of the Republic are equal before the law. Nationals are eligible to hold any public office without any other qualification than ability, and foreigners shall be subject to the restrictions established by law. In the Republic of Paraguay there are no slaves.

35. All the liberties guaranteed by this Constitution are of a social character. Their exercise is limited by the requirements of public order in the manner and form established by law. The preaching of hatred among Paraguayans, and class warfare, are prohibited.

36. Aliens shall have in the territory of the Republic the same civil rights as the citizens, in accordance with the laws regulating their exercise; they may engage in any industry, business, or profession, hold real property, make a will, and marry. If they attack the security of the Republic or attempt to alter the public order, the Government may expel them from the country, in conformity with the applicable laws and regulations. Foreigners are not compelled to become citizens.

56. The Executive Power will adopt plans for the re-distribution of the present population for economic or social reasons or for reasons of public health or of national defence.

#### THE COUNCIL OF STATE

62. There shall be a Council of State consisting of the Ministers of the Executive Power, the Rector of the National University, the Archbishop of Paraguay, one representative of commerce, two of agriculture and animal husbandry, one of manufacturing industry, the President of the Bank of the Republic, and two retired members of the armed forces, one of the Army and one of the Navy, having a rank not lower than that of colonel. The form of appointment of the councillors other than the *ex-officio* members shall be determined by law. The members of the first Council of State shall be designated by the President of the Republic.

63. The attributions of the Council of State are:

(5) To express an opinion regarding questions of a financial and economic character, for which purpose it may be advised by technical commissions.

#### THE CHAMBER OF REPRESENTATIVES

76. The Chamber of Representatives is competent:

(3) To authorise the contracting of loans and to legislate on the banking system;

(5) To regulate river and aerial navigation;

(6) On the initiative of the Executive Power, to legislate regarding monetary questions;

(9) To consider plans for concessions for limited periods prepared by the Executive Power for the establishment of industries.

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## PERU

Constitution of the Republic of Peru<sup>1</sup>

29 March 1933, as Amended 1936 and 1939

## TITLE II. CONSTITUTIONAL GUARANTEES

*Chapter I. National and Social Guarantees*

8. Only for the public service may the law impose, modify, or abolish taxes, or exempt anyone from their payment, in whole or in part.

There are no personal privileges in the matter of taxes.

11. The State guarantees the payment of the public debt contracted in accordance with the Constitution and the laws.

12. The law shall determine the monetary system of the Republic. The issuance of paper notes is a privilege of the State, which shall be exercised through a national central banking institution, entrusted with the regulation of the currency.

13. A special Department, whose functions shall be determined by law, shall exercise, on behalf of the State, the supervision of the banking enterprises.

14. The State shall maintain, by the means at its disposal, the stability of the currency and the free conversion of bank notes. Only in exceptional cases, at the request of the Executive Power and with the assent of both the agency entrusted with the regulation of the currency and the head of the Department which supervises the banking enterprises, shall Congress be able to enact a law establishing the provisional non-conversion of bank notes.

15. National loans must be authorised or approved by a law fixing the conditions and indicating the objects to which they shall apply, which objects must be either of a productive character or connected with national defence.

16. Monopolies and industrial and commercial corners are prohibited. The law shall fix the penalties to be imposed on violators. Only the law may establish State monopolies, exclusively for the national interest.

17. Mercantile companies, domestic or foreign, are subject, without exception, to the laws of the Republic. In every contract of the State with foreigners, or in the concessions which the State may grant to them, it shall be expressly stated that the foreigners will submit to the laws and the courts of the Republic, and that they waive all diplomatic claims.

26. Claims may be submitted to Congress for violations of the Constitution.

27. The State recognises the freedom of assembly and of contract. The law shall regulate the conditions governing their exercise.

28. The law shall establish the maximum interest to be paid for loans. Any agreement to the contrary is null and void. Whoever violates this provision is punishable.

29. Property, whether material, intellectual, literary, or artistic, is inviolable. No-one shall be deprived of what belongs to him, except for reasons of public utility legally proved and upon prior payment of the appraised value.

30. The State guarantees and protects the rights of authors and inventors. The law shall regulate their exercise.

<sup>1</sup> English translation partly by courtesy of the American Law Institute, and partly from *British and Foreign State Papers*, Vol. 136, 1933, pp. 28-56; for Spanish text, see Andrés María LAZCANO Y MAZON: *Constituciones políticas de América*, Vol. II, pp. 331-373.

31. Property, whoever the owner may be, shall be exclusively regulated by the laws of the Republic and shall be subject to such taxes, burdens, and limitations as these laws may provide.

32. Foreigners, in respect to property, are in the same position as Peruvians, and may not in any case demand special treatment or have recourse to diplomatic claims.

33. Public property, such as rivers, lakes, and highways, is for the use of the public in general, and may not be the object of private ownership.

34. Property shall be used in harmony with the social interest. The law shall fix the limits and conditions of the right of ownership.

35. The law may, for reasons of national interest, establish special restrictions and prohibitions for the acquisition and transfer of certain kinds of property, whether because of its nature, its condition, or its location in the territory.

36. Within a distance of fifty kilometres from the national boundary, foreigners may not acquire or hold, under any title, lands, waters, mines, or mineral fuels, directly or indirectly, individually or collectively, under penalty of forfeiting to the State the property acquired, except in the case of national need expressly declared by law.

37. Mines, lands, forests, waters, and, in general, all natural resources, belong to the State, with the exception of rights legally acquired. The law shall fix the conditions of their exploitation by the State, or of their concession, whether in ownership or usufruct, to private persons.

38. The State may, by virtue of a law, take over or nationalise land, sea, river, lake and air transportation, or other public services privately owned, upon prior indemnification and in conformity with existing laws.

39. Passenger fares and freight charges shall be collected only in national currency, without any exception.

40. The State recognises the freedom of commerce and industry, subject to the requirements and guarantees that the law may prescribe for the exercise thereof. When required by public security or public needs, the law may impose limitations or reservations on commercial and industrial activities, or authorise the Executive Power to do so, but such restrictions shall in no case have a personal or confiscatory character.

41. The State shall receive part of the profits of the mining enterprises, to the amount and in the proportion which the law shall necessarily determine.

42. The State guarantees the freedom of labour. Any profession, industry or office not contrary to morality, public health, or public security, may be freely exercised.

43. The State shall enact legislation providing for collective labour contracts.

44. Any stipulation in a labour contract, which restricts the exercise of civil, political, or social rights, is prohibited.

45. The State shall favour a system of participation by employees and workers in the profits of enterprises, and shall enact legislation on the other aspects of the relations between the former and the latter, and on the protection of the employees and workers in general.

46. The State shall enact legislation on the general organisation of industrial labour, providing for safety measures and guarantees for the life, health, and hygiene of the workers. The law shall fix the maximum conditions of labour, amount of compensation to be paid for services rendered and for accidents, as well as the minimum pay in relation to age, sex, nature of the work, and conditions and requirements in the various regions of the country.

47. The State shall favour the preservation and wider creation of medium and small rural estates; and may, by law and upon prior indemnification, expropriate lands of private ownership, especially those which are not being worked, in order to subdivide them or transfer them under the conditions established by law.

48. The law shall establish a social security system to relieve economic distress

due to unemployment, old age, illness, physical incapacity, and death; and shall promote social welfare institutions, savings and insurance organisations, and co-operative societies.

49. In extraordinary circumstances of social necessity, laws may be enacted, or the Executive Power may be authorised to adopt measures, tending to lower the cost of living. In none of these cases shall property be expropriated without due compensation.

50. The State is charged with the supervision of public health and the care of private health, and to this end shall enact the laws necessary for hygienic and sanitary control, as well as those necessary for the physical, moral, and social improvement of the population.

51. Marriage, the family, and maternity are under the protection of the law.

52. It is a primary duty of the State to protect the physical, mental, and moral health of childhood. The State shall protect the right of the child to home life, education, vocational training, and sufficient care when he finds himself abandoned, ill, or in misfortune. The State shall entrust the fulfilment of the provisions of this article to adequate technical organisations.

### *Chapter II. Individual Guarantees*

55. No-one shall be compelled to perform personal labour without his free consent and without due compensation.

57. . . . .

The penalty of confiscation of property shall not be imposed.

58. No-one shall be detained for his debts.

59. Liberty of conscience and belief is inviolable.

No-one shall be persecuted on account of his opinions.

60. The right of petition may be exercised individually or collectively. The armed forces may not exercise it.

62. All persons have the right to assemble peacefully and without arms, without disturbing the public order. The law shall regulate the exercise of the right of assembly.

63. The State guarantees the freedom of the press. All persons have the right to freely express their ideas and opinions by means of the press or any other method of publication, subject to the responsibility established by law. Responsibility attaches to the author and publisher of the punishable publication, and both shall be jointly liable for the indemnification due to the injured person.

64. The regular courts shall have jurisdiction of offences committed by the press.

65. Public performances are subject to censorship.

67. The right to enter, depart from, or travel through, the territory of the Republic is guaranteed, subject to the limitations established by the laws relating to crimes, sanitation and control of aliens.

68. No-one may be banished from the territory of the Republic, or removed from his place of residence, except by a final sentence or by operation of the law regulating aliens.

### TITLE III. EDUCATION

71. The technical direction of education devolves on the State.

72. Primary instruction is obligatory and free.

73. There shall be at least one school in every place where the population of school age amounts to 30 pupils.

Complete primary instruction shall be given in every Provincial and district capital.

74. Schools functioning in industrial, agricultural or mining centres shall be maintained by the respective proprietors or undertakings.

75. The State promotes education in its secondary and superior grades, with a tendency in favour of free education.

76. In each Department there shall be at least one school of an industrial scope.

77. The State promotes the technical education of the workers.

78. The State promotes and contributes to the maintenance of pre-school and post-school education, and of schools for backward and abnormal children.

79. The moral and civic education of the child is obligatory, and shall necessarily be inspired by national aggrandisement and human solidarity.

80. The State guarantees the liberty of the professor's chair.

81. The teaching profession is a public career and entitled to the emoluments which the law fixes.

82. Archaeological, artistic and historic treasures are under the guardianship of the State.

83. The law shall indicate the minimum amount of the revenue destined for the maintenance and diffusion of education, and the proportion in which it must annually be increased.

#### TITLE V. LEGISLATIVE POWER

123. The following are attributions of Congress:

(6) To authorise the Executive Power to negotiate loans pledging the national finances and indicating funds for their amortisation;

(7) To enact customs tariffs on the proposal of the Executive Power;

(8) To recognise the national debt and indicate measures for its consolidation and amortisation.

#### TITLE VII. EXECUTIVE POWER

##### *Chapter III. Advisory Commissions and Technical Councils*

181. There shall be Technical Councils for administrative co-operation in the departments of Education, Agriculture (including waters, animal husbandry and the exploitation of forests), Industries (including commerce), Mining, Health, Public Works, Posts and Telegraphs, Indigenous Affairs, Labour and such others as are provided for by law.

#### TITLE VIII. THE COUNCIL OF NATIONAL ECONOMY

182. There shall be a council of national economy formed by representatives of the consuming public, of capital, of labour, and of the liberal professions. A law will determine its organisation and functions.

#### TITLE X. DEPARTMENTAL AND MUNICIPAL ADMINISTRATION

##### *Chapter I. Departmental Councils*

192. The Councils shall have power to organise, administer and control, in accordance with the law, the departments of Education, Health, Public Works of a departmental character, Highways, Agriculture, Stock-raising, Industries, Mining, Charity, Social Welfare, Labour, and others related to the needs of their localities.

193. The Departmental Councils shall have the following attributions in addition to those provided for in the law:

(9) To register officially indigenous communities in accordance with the law in order that their legal personality may be recognised;

(10) To protect the indigenous communities, take a census and make a land register thereof, and grant in accordance with the law titles of property to those not holding such titles who request them. The resolutions of the Departmental Councils on this subject shall be subject to revision by the Federal Executive on appeal by the communities.

196. Imports and exports within the country may not be burdened with taxes.

201. The Departmental Councils may contract loans the service of which for amortisation and interest does not require more than fifteen per cent. of their income for the last year, but only with the favourable vote of two-thirds of the Council. All loans contracted by the Councils must be devoted to works of a reproductive character.

#### TITLE XI. THE NATIVE COMMUNITIES

207. The Indian communities have a legal existence and juridical personality.

208. The State guarantees the integrity of the property of the communities. The law shall organise the corresponding register of real property.

209. The property of the communities is imprescriptible and inalienable, except in case of expropriation on account of public utility, on payment of compensation. It is, moreover, not attachable.

210. Neither the municipal councils nor any corporation or authority shall intervene in the collection or administration of the income and property of the communities.

211. The State shall endeavour to provide by preference lands for the native communities which do not possess them in sufficient quantity for their needs, and may expropriate lands in private ownership for this purpose, on payment of compensation.

212. The State shall issue the civil, penal, economic, educational and administrative legislation which the peculiar conditions of the natives demand.

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## EL SALVADOR

### Constitution of the Republic of El Salvador<sup>1</sup>

*20 January 1939*

The representatives of the people of El Salvador, meeting as a National Constituent Assembly and placing their trust in God, order, decree and proclaim the present Constitution with a view to organising the life of the country on just

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<sup>1</sup>English translation by courtesy of the American Law Institute; for Spanish text, see *Constitución política de la República de El Salvador*, Imprenta Nacional, 20 Jan. 1939, or Andrés María LAZCANO y MAZON: *Constituciones políticas de América*, Vol. II, pp. 375-419.

and firm bases which harmonise individual rights with those of Society and the State in order that they may be a positive guarantee for the realisation of the principles of authority, liberty and solidarity.

### TITLE III. ALIENS

12. From the time of their arrival in the territory of the Republic aliens shall be bound to respect the authorities and obey the laws and shall acquire the right to be protected by the laws.

13. Neither Salvador citizens nor aliens shall be entitled in any case to claim compensation from the Government for any loss or damage which they may suffer in their person or property on account of any factious disturbance; nevertheless, they retain their right to bring an action before the authorities of the country against the guilty persons.

14. Aliens shall not be entitled to avail themselves of diplomatic action, except in cases of denial of justice and after having exhausted the legal remedies which are open to them. For this purpose a judgment other than a final judgment given against the claimant shall not be deemed to constitute denial of justice. Any person who contravenes this provision shall forfeit the right to live in Salvador.

15. The laws shall prescribe the manner and the cases in which an alien may be refused admission to the national territory or the right to remain therein.

Aliens who take part directly or indirectly in the internal politics of the country or who spread doctrines which are anarchical, anti-social or contrary to democracy shall forfeit the right to live in Salvador.

16. The provisions laid down in this part shall not be modified by any international agreement.

### TITLE V

#### *Chapter I. Rights and Guarantees*

22. The authorities have the obligation to give effect to the guarantees of individual, social and national character enumerated in this Constitution. The citizens have the obligation to fulfil the duties which are implicit in the exercise of their rights.

24. No taxes shall be levied except by virtue of a law and for the public service. The system of taxation shall be based on the fair and equitable apportionment of assessments in accordance with the economic capacity of the taxpayers.

25. All the inhabitants of El Salvador have the right to preserve and defend their life, honour, liberty, and property, and to dispose freely of the latter in conformity with the law.

All kinds of entailments are prohibited, except the following:

(1) Trusts, when they are created in favour of the Nation, of charitable or cultural institutions of the country in existence or to be organised, of natural persons legally incapable of handling their own interests, or of unborn persons *en ventre sa mère*; and

(2) Family estates.

26. Every person has the right to enter the Republic, remain in its territory, and to travel through it, without any other limitations than those established by law.

27. The free exercise of all religions is guaranteed, without any other restriction than that required by morals and public order.

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28. The right to assemble peacefully without arms, and to associate for any lawful purpose, is guaranteed. However, the establishment of convents and any kind of monastic institutions is prohibited.

29. No person shall be compelled to do work or render personal services without just compensation and without his full consent, except where required by law in cases of public necessity and utility. The law shall not authorise any act or contract having for its object the loss or the irrevocable sacrifice of human liberty; nor shall it authorise agreements by which a man covenants for his own proscription or exile.

30. Every person has the right to address petitions to the lawfully constituted authorities, provided they are made in a decorous manner; also to have said petitions acted upon and be informed of the results thereof.

31. No person shall be deprived of the right to terminate his civil affairs by negotiation or arbitration. The law shall establish the special formalities which must be fulfilled when the interested parties or any of them do not have the free administration of their property.

32. The freedom of contracting in accordance with the law is recognised. In order to prevent usury, the State has the obligation to increase the supply of capital through credit institutions and to develop co-operative organisations of all kinds.

33. No person shall be deprived of his freedom on account of debt.

34. Confiscation of property, whether as a penalty or for any other reason, is prohibited. The authorities who violate this provision shall answer at all times with their persons and property for the damage done. Confiscated property may not be acquired by prescription.

36. All men are equal before the law.

37. No person shall be deprived of his life, liberty, property or possession thereof, except upon trial according to law. . .

44. No one shall be detained or imprisoned in other places than those provided for this purpose by law. However, the State may assign prisoners to public work outside of said places in conformity with the law.

Solitary confinement of prisoners for more than forty-eight hours is prohibited.

47. Every man has the right to freely express, write, print, and publish his thoughts as he sees fit, without previous examination, censorship, or bond; but he shall be responsible in accordance with the law for any offence committed.

The authors or publishers of printed matter of a calumnious or injurious nature against foreign nations, their Governments or diplomatic representatives accredited to the country, shall be judged on the basis of reciprocity, the Salvadorean laws being followed for the imposition of the penalty.

In no case shall the press or its equipment be seized as an instrument of crime.

48. The circulation of any kind of publication which tends to the disintegration of the Salvadorean society or to the moral breakdown of its customs, is prohibited.

The State may censor public performances and radio broadcasting, in conformity with the law.

50. The right of property is inviolable. Consequently, no person shall be deprived of his property except for reasons of public utility legally proved, and upon previous just indemnification. Only in cases involving the opening of national highways, the supply of water to cities or towns, and for military purposes in time of war, shall it be sufficient to determine beforehand the price and manner of payment, even when the compensation is to be made after the occupation. For the latter cases the law shall establish a special procedure.

51. Only Salvadoreans by birth and companies organised by them may own real property and have real rights therein, within a zone fifteen kilometres wide

along the coasts and frontiers. The present foreign owners may continue in possession for a period not exceeding twenty-five years.

52. The artistic, historic, and archeological wealth of the country is an integral part of the cultural treasure of the Nation; it shall be under the protection of the State and subject to the special laws for its preservation.

53. No corporation, whatever its character, denomination, or purpose may be, shall have legal capacity to hold or administer real property, with the exception of the property devoted immediately or directly to the service or purposes of the institution or to the public service.

54. Education is free; primary instruction is, in addition, compulsory. Instruction given in establishments supported or subsidised by the State or the municipalities shall be secular, and that given in private schools or colleges shall be subject to the supervision and control of the State.

Education shall provide the moral training, the civic education, and the personal and professional development of Salvadoreans.

The State and the municipalities are bound in a special manner to increase primary education, by providing the necessary schools for this purpose, in which such education shall be gratuitous.

The State shall also promote secondary and professional education, arts and crafts, and any cultural activity; but the establishments supported or subsidised for this purpose by the State shall be organised and controlled directly by the Executive Power. Only the State shall issue or authorise academic degrees for the practice of the learned professions in the Republic, in conformity with the law.

No distinction shall be made in any educational institution as to the admission of students, unless such distinction has to do with the particular purposes of the institution.

55. Every person may freely engage in any commerce or industry; but the State may monopolise by law, for the benefit of the Nation, to be administered by the Executive Power, the following: nitrate, explosives, arms and cartridges; alcohol and alcoholic beverages; manufactured tobacco, matches and every kind of carburetant; it may also promote business and industrial activities in favour of Salvadoreans.

There shall be no monopolies of any kind, or restrictions on industry under the guise of protection, but the law may grant privileges for a limited time to inventors or persons improving inventions, and to those who establish some new industry in the country.

The privileges referred to in the final part of the preceding paragraph shall not be granted for a period longer than ten years, nor shall they have a prohibitive character for analogous or similar industries.

56. The following services shall be performed exclusively by the State: the coining of money, and postal, telegraph, telephone, and radio services. The issuance of notes shall be made exclusively by a single bank under a concession of the State.

59. El Salvador recognises rights and duties prior and superior to the positive laws, adhering to the principles of liberty, equality, and fraternity, and adopting as the basis of society the family, work, property, and public order.

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## *Chapter II. The Family and Labour*

60. The family, as the fundamental basis of the Nation, must be specially protected by the State, which shall provide the necessary laws and regulations for its welfare, to promote marriage, and to protect maternity and childhood.

61. The family estate, for the benefit of Salvadoreans, is hereby established. A special law shall regulate it.

62. Labour shall enjoy the protection of the State by means of laws which

shall guarantee equity and justice in the relations between employers and employees or workers.

The work of women and minors under eighteen years of age shall be specially regulated.

The practice of professions shall also be regulated by law.

63. Disputes arising between capital and labour or between employers and employees or workers, shall be settled by the tribunal of arbitration or conciliation to be established by a special law.

64. The appointment of employees of the public administration shall always be made on the basis of merit, first preference being given to Salvadoreans by birth, and then to naturalised Salvadoreans or to Central Americans by birth. The same order of preference shall be followed in the granting of governmental concessions or commissions for which the qualification of citizenship is not necessary.

## TITLE VI

### *Chapter I. Legislative Power*

77. The National Assembly is competent:

(19) To decree taxes and contributions, in an equitable and just relation, on all classes of goods and income; and in case of war to decree loans in the same relation if the ordinary public revenues are not sufficient;

(20) To authorise the Executive Power to contract voluntary loans, within or outside the Republic, when a grave and urgent necessity so demands;

Loans contracted in accordance with this provision shall be submitted to the knowledge of the Legislative Power and approved by at least three-quarters of the elected deputies voting by name and in writing;

(21) To decree annually the budget of receipts and expenditure of the public administration and to apply the revenues in such a manner as to give preferential treatment to health, education, the administration of justice and police;

(27) To decree subventions, prizes and privileges for limited periods to the authors of useful inventions and to those who introduce new industries; and to develop especially agriculture and manufacturing industry;

(33) To enact laws and provisions tending to restrict the sale and consumption of alcoholic liquors and dangerous drugs;

(34) To create and organise the merchant marine, coastal shipping, and civil aviation.

## TITLE VII. EXECUTIVE POWER

105. The following are duties of the Executive Power:

(8) To maintain public health in the country and to improve the hygienic conditions of its inhabitants;

(9) To direct and encourage public education giving to this department the preferential attention which it deserves, and to give special encouragement to the cultural, agricultural and industrial activities of the country;

(10) To protect maternity and infancy, organising the necessary institutions for this purpose.

106. The Executive Power has authority:

(12) To establish new means of communication and to improve those already existing, as well as the postal, telegraph, telephone, radio and other similar services; but contracts for the construction of railways, harbours, bridges, roads and canals will not be effective until approved by the Legislative Assembly.

## TITLE XII. PUBLIC FINANCE

151. All the revenues of the State shall constitute a single fund from which all the needs and obligations of the State shall be met. Revenues may be assigned for a special purpose only for the service of the public debt, for the purchase and division of lands and the construction of low cost housing with a view to social improvement, and for charitable and educational institutions and public undertakings which enjoy autonomy in virtue of the law. In this last case, only revenues produced by the undertaking or institution in question shall be so assigned.

155. Nor may the Treasury pledge, authorise or approve any expenditure not provided for by a budgetary credit. The income of future budgetary periods may be pledged only with legislative authorisation by means of an extraordinary budget for the acquisition or construction of works of public interest or the consolidation or conversion of the national debt.

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156. In case of scarcity or public calamity, the Executive may, by a decision of the Council of Ministers, grant temporary exemption from taxes to articles of primary necessity, submitting its decision to the National Assembly, immediately if the Assembly is in session or at one of its first sessions if it is in recess, for approval which the Assembly shall grant if it considers the decision justified.

162. When the State or municipalities have to conclude contracts which pledge national or municipal revenues or property they shall, except in the cases provided for by law, publish the proposal in the *Diario Oficial* and invite public tenders.

In no case shall contracts be concluded whereby the decision in case of dispute will rest with a foreign tribunal, and for purposes of interpretation the Spanish text shall always be authoritative.

163. Every concession granted by or contract concluded by the State for the construction of harbours, railways, canals or any other work of public utility shall include a condition that these works shall be transferred in perfect condition to State ownership without compensation at the end of a prescribed period which shall not exceed fifty years.

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## URUGUAY

### Constitution of the Oriental Republic of Uruguay<sup>1</sup>

*18 May 1934, as Modified 11 January 1937 and 29 November 1942*

#### SECTION II. RIGHTS, DUTIES AND GUARANTEES

##### Chapter I

7. The inhabitants of the Republic have the right of being protected in the enjoyment of their life, honour, liberty, security, work and property. No-one may

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<sup>1</sup> English translation from *British and Foreign State Papers*, Vol. 137, 1934, pp. 703-753; for Spanish text, see *Constitución de la República con Incorporación de las Reformas a Plebiscitarse el 29 de Noviembre de 1942*, official edition, Ministerio de Instrucción Pública y Previsión Social, 1942, or Andrés María LAZCANO y MAZON: *Constituciones políticas de América*, Vol. II, pp. 421-478.

be deprived of these rights except in conformity with laws which may be passed in the public interest.

8. All persons are equal in the eyes of the law, no other distinction being recognised between them but that of talents or virtues.

10. The private actions of individuals which do not in any manner interfere with public order or injure a third party are exempt from the authority of the magistrates. . .

25. The death penalty shall not be applied to anyone.

In no instance may prisons be used as penal establishments, but solely for the safe custody of accused and convicted persons. Their aim shall be re-education, aptitude for work and the prevention of crime.

28. The expression of opinions, either verbally, by private writings, by publication in the press, or by any other form of publicity, is entirely free and is not subject to previous censorship; the author and, as the case may be, the printer or issuer are, in conformity with the law, responsible for any abuses which may be committed.

29. Every inhabitant possesses the right of petitioning all or any of the authorities of the Republic.

31. The right of property is inviolable, but is subject to the provisions of laws which may be passed in the public interest.

No-one may be deprived of this right except in cases of public necessity or utility, laid down by law, and upon prior payment of fair compensation from the national Treasury.

When expropriation is declared to be necessary for reasons of public necessity or utility, proprietors shall be indemnified for the damages and prejudice which they may suffer on account of delays, whether the expropriation is carried into effect or not.

32. Intellectual work and the rights of the author, inventor or artist shall be recognised and protected by law.

33. All the artistic or historical riches of the country, whoever may be their owner, constitute the cultural treasure of the Nation; they shall be safeguarded by the State, and such measures as may be deemed proper for their protection shall be laid down by law.

35. Every person may devote himself to labour, agriculture, industry, commerce, a profession or other lawful activity, saving such limitations as may, in the public interest, be prescribed by law.

36. Every individual is at liberty to enter, reside in and quit the territory of the Republic with his property, observing always the laws, and without prejudice to the rights of third parties.

Immigration must be regulated by law, but in no case shall immigrants suffer from physical, mental or moral defects which may be detrimental to society.

37. The right of peaceful assembly, without arms, is guaranteed. The exercise of this right may not be denied by any authority of the Republic, except by virtue of a law and only in so far as it may be opposed to public health, security and public order.

38. All persons have the right to associate, whatever may be the object in view, provided that they do not constitute an association which is declared by law to be illicit.

## *Chapter II*

39. The State shall protect the social development of the family.

40. The care and education of their children, in order that they may attain their full physical, intellectual and social capacity, is a duty and a right of parents.

Persons who have numerous offspring to bring up have a right to compensatory help, should they need it.

Requisite measures to ensure the protection of infants and adolescents against corporal, intellectual or moral abandonment by their parents or guardians, and also against exploitation and abuse, shall be laid down by law.

41. Parents have the same duties towards children born out of wedlock as towards those born in wedlock.

Maternity, whatever may be the condition or status of the woman, has a right to the protection of society, and to its assistance in case of need.

42. The law shall arrange that child delinquents shall be subjected to a special régime, in which women shall participate.

43. The State shall legislate on all questions relating to public health and hygiene, in order to secure the highest possible physical, moral and social well-being of all the inhabitants of the country.

It is the duty of all the inhabitants to care for their health, and to obtain medical assistance in case of illness. Preventive means and medical assistance shall be furnished by the State gratuitously only to indigent persons or to those lacking the necessary resources.

44. The law shall foster the hygienic and economic lodging of workers by encouraging the construction of dwellings and settlements which combine such conditions.

45. The State shall provide shelter for indigent persons or those lacking sufficient means who, owing to physical or mental defects of a chronic nature, are unfit for work.

46. The State shall combat social vices by means of the law and international conventions.

47. The right of succession is guaranteed within the limits which the law may establish. The direct line of ascent and descent shall be given preferential treatment in the laws imposing duties.

48. The "family trust", its constitution, preservation, enjoyment and transmission shall be the object of special protective legislation.

49. Every commercial or industrial organisation in the form of a trust shall be under the control of the State.

50. The establishment and duration of the tariffs of public services undertaken by companies who hold concessions shall be subject to the approval of the State or the municipalities, as the case may be.

In no case may the concessions referred to in this article be granted in perpetuity.

51. Usury is prohibited. The law which lays down the maximum interest on loans is of public order. It shall fix the penalty to be applied to persons contravening it.

No person may be deprived of his liberty on account of debt.

52. Labour is under the special protection of the law.

It is the duty of every inhabitant of the Republic, without prejudice to his liberty, to apply his intellectual or physical energy in a manner which redounds to the benefit of the community. The latter shall strive to offer, preferably to citizens, the possibility of gaining their sustenance by means of profitable activity.

53. The law shall recognise as appertaining to anyone who stands in a relationship of work or service, as a worker or employee, the right to moral and civic independence of conscience; a just remuneration; the limitation of working hours; weekly rest; and physical and moral hygiene.

The work of women, and of young persons under 18 years of age shall be specially regulated and limited.

54. The impartial and equitable distribution of work shall be regulated by law.

55. Every undertaking in which the staff, owing to the nature of the work, is required to remain in the respective establishment, shall be obliged to provide adequate food and lodging, under the conditions which shall be laid down by law.

56. The organisation of trade unions shall be promoted by law, which shall grant them privileges and lay down rules for recognising their legal status.

It shall likewise promote the creation of conciliation and arbitration tribunals.

The strike is declared to be a right of trade unions and, as such, its exercise and scope shall be regulated.

57. Public officials are in the service of the Nation and not of a political group. Within premises and during hours of work political propaganda shall be illicit and, as such, repressed by law.

A public officials' statute shall be laid down by law, on the fundamental basis that the official exists for the post, and not the post for the official.

The statute shall, in particular, determine conditions for entering the administration; rules relating to promotion; guarantees in respect of permanency, retirement, suspension or transfer; and the duties of public servants and their appeal against decisions which affect them. . . .

58. General pensions and social insurance shall be organised in such a manner as to ensure adequate superannuation pay and subsidies in the event of accidents, illness, inability to continue working, enforced unemployment, etc., to all workers, employers, employees and labourers, and the corresponding pension to their families in the case of death.

Everyone reaching the limit of productive age after a long period in the country, and lacking the means to meet his vital necessities, is entitled to an old-age pension.

59. Liberty of education is guaranteed.

The intervention of the State for the sole purpose of maintaining public hygiene, morality, security and public order, shall be regulated by law.

Every parent or guardian has the right to choose, for the education of his children or wards, the teachers or institutions he may desire.

60. Private educational institutions which give free tuition to a number of pupils, in the manner which shall be determined by law, and cultural institutions, shall be exempt from national and municipal taxation, as a subvention for their services.

61. Elementary education is obligatory.

The State shall take the necessary steps to this end.

62. Free public instruction, elementary, secondary, higher, industrial, artistic and physical, the creation of scholarships for the improvement and specialisation of cultural, scientific and labour studies, and the establishment of popular libraries, are declared to be of social utility.

In all educational institutions special attention shall be paid to the formation of the moral and civic character of the pupils.

### SECTION III. CITIZENSHIP AND THE RIGHTS OF CITIZENS: METHODS OF SUSPENSION AND LOSS OF CITIZENSHIP

#### *Chapter III*

70. Citizenship is suspended:

(7) By forming part of social or political organisations which tend to destroy the fundamental bases of the national community by means of violence. The bases contained in sections I and II of the present Constitution are considered fundamental for the purpose of this provision.

## SECTION V. THE LEGISLATIVE POWER

*Chapter I*

75. The General Assembly is competent :

(3) To enact laws relative to the independence, security, tranquillity and good order of the Republic; the protection of all the individual rights, and the encouragement of knowledge, agriculture, industry, and internal and external commerce;

(17) To grant monopolies, for which purpose a majority of two-thirds of the votes of the total number of members of which each Chamber is composed will be required to establish monopolies in favour of the State, or of municipalities an absolute majority of the members of each Chamber is required.

## SECTION IX. THE EXECUTIVE POWER

*Chapter III*

157. The President of the Republic, acting with the Minister or Ministers concerned, or with the Council of Ministers in accordance with the provisions of article 174, is responsible for :

(22) Granting industrial privileges in accordance with the laws;

(23) Authorising or refusing to authorise the creation of any banks which it may be proposed to establish.

## SECTION XII. THE AUTONOMOUS BODIES OR DECENTRALISED SERVICES

*Sole Chapter*

178. The various services which constitute the industrial and commercial domain of the State, and higher, secondary, elementary and normal education, shall be administered by autonomous councils or boards.

179. The under-mentioned services may not be decentralised in the form of autonomous bodies, even though that degree of autonomy which may be compatible with control by the Executive Power be granted to them by law: posts and telegraphs; railways; and the customs and ports and public health administrations.

180. Councils or boards whose members are remunerated shall be composed of not less than three or more than five members, as the law may determine in each case; they shall be appointed by the Executive Power in concert with the Council of Ministers, after the consent of the Senate has been obtained, upon a reasoned proposal being submitted, by three-fifths of the votes of the total number of its members.

.....

Membership may be declared by law, by three-fifths of the votes of the total number of members of each Chamber, to be of an elective nature, and the law shall determine, for each council or board, the persons, or the bodies interested in the service concerned, by whom such election shall be effected.

181. Three-fifths of the votes of the total number of members of which each Chamber is composed shall be required in the case of a law to allow private capital to be invested in the constitution or amplification of the autonomous bodies



or decentralised services, and likewise to regulate the participation on the councils or boards which, in such case, may appertain to the respective shareholders.

The contribution of private capital and the representation of the same on the councils or boards shall never exceed those of the State.

182. Two-thirds of the votes of the total number of members of which each Chamber is composed shall be required to create new autonomous bodies or to suppress those in existence.

183. The autonomous bodies or decentralised services may not conduct any business extraneous to the sphere expressly assigned to them by law, or use their funds for purposes alien to those of their normal activities.

The conditions and the circumstances under which they may purchase real estate shall be laid down by law. The consent of four members of the respective councils or boards, when these are composed of five members, and the unanimous consent when they are composed of three members, shall be necessary in every case.

184. All autonomous administrations shall publish periodical reports which show their financial situation in a clear manner. The scope and the annual number of such reports shall be fixed by law. All reports must bear the counter-signature of the Audit Board.

185. The members of the councils or boards shall hold office for 4 years, but they shall continue to exercise their functions until their successors have been appointed.

They may be re-elected provided that the policy carried out by them has merited a favourable judgment on the part of the Audit Board.

186. On ceasing to function councils or boards must render an account of their administration to the Executive Power, after the Audit Board has passed judgment, without prejudice to the responsibilities to which they may be liable, in accordance with the provisions of section XIII.

187. When the Executive Power regards the activities of the councils or boards as improper or illegal, it may address to them the observations which it deems pertinent. If attention is not paid to such observations, the Executive Power must bring them to the knowledge of the Senate, and it may also propose the corrective measures or ask for the dismissals which it believes to be called for. The Senate shall decide by the vote of three-fifths of the total number of its members.

The rights of the Executive Power under this article shall be regulated by law.

188. The provisions of the preceding article do not affect the right of the Executive Power to take steps to obtain the removal of councillors or directors in the case of incompetence, neglect or delinquency in the exercise of their office, or of the commission of acts which affect their good name or the prestige of the institution to which they belong.

The removal of such officers must be voted by three-fifths of the total number of the members of the Senate.

189. The absolute majority of the members of each Chamber shall be required in order to modify the statutes of the State Banks.

190. Members of the councils or boards of autonomous bodies of decentralised services may not be appointed to posts, even though they be honorary ones, which are, directly or indirectly, subordinate to the institution of which they form part.

This inhibition shall remain in force for one year after their functions have ceased, whatever be the reason for the cessation, and shall extend to any other duty, whether professional or otherwise, even though it is not of a permanent nature or of fixed remuneration.

Members of the councils or boards of autonomous bodies may not carry on simultaneously professions or activities which, directly or indirectly, are related to the institution to which they belong.

The provisions of the two preceding paragraphs do not apply to teaching functions.

## SECTION XIII. PUBLIC FINANCE

*Chapter I*

193. The budgets of the industrial and commercial undertakings of the State shall be prepared for each of them and submitted for the approval of the Executive Power after consideration by the Court of Accounts. The Executive Power may make observations upon these budgets and in such case, as also in the event of observations having been made by the Court of Accounts, shall return them to the undertaking concerned.

If the undertaking accepts the observations of the Executive Power and the opinion of the Court of Accounts, it shall return its budget to the Executive Power for approval.

If agreement is not reached in accordance with the preceding paragraph, the draft budgets shall be submitted to the Legislative Power, together with all the papers in the case, in order that it may decide upon the points in controversy and on the total sums to be voted.

.....

The law shall determine, on the basis of reports from the undertakings in question and the Court of Accounts and the opinion of the Executive Power, the percentages which each undertaking may set aside for salaries and other expenses of direction and administration.

## SECTION XIV. COUNCIL OF NATIONAL ECONOMY

*Sole Chapter*

204. A Council of National Economy may be created by law, in a consultative and honorary capacity. It shall be composed of representatives of the economic and professional interests of the country. The manner in which it shall be constituted and its functions shall be specified by law.

205. The Council of National Economy will communicate with the Public Powers in writing, but it may cause its points of view to be put forward in the Legislative Committees by one or more of its members.

## SECTION XV. THE JUDICIAL POWER

*Chapter VIII*

227. Justice shall be gratuitous for persons who are declared to be poor under the terms of the law. In lawsuits in which this declaration is made on behalf of the plaintiff, a similar privilege shall be extended to the defendant until the pronouncement of the final sentence, which shall confirm the privilege if the plaintiff is declared to have brought his action on flimsy grounds.

## SECTION XVI. THE GOVERNMENT AND ADMINISTRATION OF THE DEPARTMENTS

*Chapter I*

241. The Departmental Councils may grant concessions for local and departmental public services on the proposal of the mayor and by an absolute majority of votes.

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## VENEZUELA

### Constitution of the United States of Venezuela<sup>1</sup>

20 July 1936

#### TITLE I. THE VENEZUELAN NATION AND ITS ORGANISATION

##### *Section II. Basis of the Union*

12. The States enumerated in article 4 form the Venezuelan Union. They recognise reciprocally each others autonomy; declare themselves to be equal political entities; maintain their full sovereignty in so far as it is not delegated by this Constitution and declare that their first duty and the first duty of the Federation is the maintenance of the integrity and independence of the Nation. . . They further undertake to maintain the régime and Government of the Union and of the States on the fundamental bases which are indicated in the following articles.

15. The States agree to reserve to the competence of the Federal Power :

(1) Everything relating to the national action of the United States of Venezuela as a sovereign power. Neither the States nor the municipalities may establish or develop political or diplomatic relations with other nations;

(3) Supreme vigilance on behalf of the general interests of the Venezuelan Nation and the maintenance of public peace throughout the national territory;

(4) The legislation which shall regulate civil, commercial and criminal matters and questions of procedure throughout the Republic.

The laws relating to elections, banks, credit institutions, social provision, human and animal health; the conservation and development of agriculture and of animal husbandry; the conservation, development and utilisation of the lands and waters and other natural resources of the country; labour, trade marks, literary, artistic and industrial property, public registration, expropriation and grounds of public utility, immigration, naturalisation, the expulsion and admission of foreigners, and legislation embodying regulations for the application of the guarantees granted by this Constitution;

(6) Supreme vigilance to ensure the correct application of the national laws throughout the territory of the Republic;

(9) Legislation regarding public instruction.

Primary elementary instruction is compulsory and that which is given in official institutions shall be free;

(10) Everything relating to the formation of the census and of national statistics in accordance with the law.

For all purposes for which it is necessary to take as a basis the population of the Nation, the States, the Federal district, or the Federal territories, the last census of the Republic approved by Congress shall be followed.

The national census shall be held on the occasions indicated by law;

(12) Everything relating to land transport, aerial, maritime, river and gulf navigation and to the harbours and works for disembarkation in ports.

The navigation of rivers and other navigable waters may not be restricted by

<sup>1</sup> English translation partly by courtesy of the American Law Institute and partly by the International Labour Office; for Spanish text, see *Gaceta oficial*, Extraordinary, 21 July 1936, p. 2, or Andrés María LAZCANO Y MAZON: *Constituciones políticas de América*, Vol. II, pp. 479-523.

taxes and privileges unless it has been necessary to undertake such works in order to make them navigable;

(13) Everything relating to the customs régime for the collection of import duties, which shall be received in full by the National Treasury, as shall also transit duties on merchandise going abroad which has also come from abroad. . . Exportation is free, subject to such limitations as may be required by public order or the interests of the Nation.

Everything else relating to this question shall be regulated by national laws;

(14) Everything relating to posts, telegraphs, telephones, and road communication;

(15) Everything relating to the organisation and régime of the Federal District and the Federal territories and dependencies;

(16) Everything relating to the opening and maintenance of national roads, that is to say those which cross a State or the Federal District or a Federal territory and proceed outside its limits; aerial traction cables and railways, although they remain within the limits of a State, except in the case of tramways or urban traction cables, permission to operate which and the regulation of which is within the competence of the municipalities;

(17) Everything relating to the collection of the duties on stamps, cigarettes, matches, spirits and liquors and other duties established by law with the character of national taxes;

(18) Everything relating to salt works and uncultivated lands, to the products of these, to the pearl fisheries and to the mines. Each State shall retain property over such resources within its jurisdiction but their administration shall be vested in the Federal Executive which shall exercise it in accordance with the laws upon the subject: these laws shall provide that the salt works are inalienable, that mining concessions shall be for a limited period and that uncultivated lands may be sold, let, and given by free adjudication by the Federal Executive, according to the provisions of the laws, which shall provide for a right of preference in favour of occupants in such cases.

The public lands in the maritime, river and gulf islands may not be alienated and permission to utilise them may only be granted in the form which does not involve either directly or indirectly transference of the property over the land.

The income of the salt works, pearl fisheries, mines and public lands, including the product of the sale of these, shall be paid into the National Treasury;

(19) Everything relating to public works which may be necessary throughout the territory of the Republic, subject to this provision not limiting the right of the States and the municipalities to undertake public works on their own account;

(20) Every other question which the present Constitution attributes to one of the Powers which constitute the Federal Government and which has not been mentioned in this article.

16. The States undertake to comply with, secure compliance with and execute this Constitution, the laws of the Union, and the decrees, orders and resolutions issued by the Federal Powers in the exercise of their legal attributions and powers concerning the subjects of Federal competency enumerated in the preceding article.

17. The States are competent:

(4) To organise their revenues which shall consist of . . .

I. The taxes and other public contributions established by their Legislative Assemblies, subject to the following restrictions:

(a) The States may not create customs barriers, since there shall be no such barriers except those of the Nation; they may not collect import or export duties or transit duties on foreign merchandise which is en route for foreign territory; nor upon other sources of revenue which are reserved for

national taxation, nor upon those which are within the competence of the municipalities in accordance with article 18;

- (b) They may not tax the transit of live stock, manufactures or products of other States, nor of articles which are en route for other States, whatever may be their origin;
- (c) They may not tax fruits, manufactures or products, or any class of foreign merchandise before it is offered for consumption; nor may they prohibit the consumption of articles produced outside the State, nor burden them with taxes different from those which are paid in respect of the same articles when produced in the locality;
- (d) They may not call for intervention of the Federal fiscal administration for the collection of their taxes, but may call upon it for data and reports which they consider necessary for the establishment, institution and supervision of their taxes;
- (e) They may not create taxes to be paid in personal services or in the equivalent thereof in money;
- (f) They may not create taxes for contributions of any kind on live stock or on products or sub-products thereof.

.....

18. The municipalities are competent:

(1) To organise their police services, supplies, cemeteries, city improvements, civil, architectural, public lighting, aqueducts, urban tramways and other services of a municipal character; to organise services to combat illiteracy, subject to the Federal laws, provisions and regulations regarding education. They shall organise the public health service, subject to the Federal laws and regulations regarding health and to the inspection of the Federal Health Service;

(2) To administer their lands, which they may not alienate except for purposes of construction;

(3) To organise their revenues, subject to the restrictions indicated in paragraph 4, No. 3 of article 17. The products of agriculture, animal husbandry and of fisheries for edible fish shall be subject to the municipal taxes on retail sales but may not be burdened with special taxes, nor may their retail sale be burdened by unequal taxes.

20. Without prejudice to the services of the powers of the States in all cases in which they are required to co-operate with the Federal Government, the latter may have in their territory the necessary Federal officials and employees and officers, soldiers and employees of the National Army.

The chiefs of the forces and other Federal employees in the States shall have jurisdiction only in matters concerning their respective appointments without any exemption or privilege which differentiates them from other citizens resident in the State concerned, but the latter may not impose upon them duties incompatible with the Federal service entrusted to them.

21. The Federal Government may erect in the territories of the States the ports, wharves, warehouses, dockyards, aerodromes, penitentiaries, quarantine stations and other works necessary for Federal administration.

24. Neither the States nor municipalities may negotiate loans abroad, and contracts concluded by them shall be governed by the provisions of article 49 of this Constitution.

## TITLE II. VENEZUELAN AND THEIR RIGHTS AND DUTIES

32. The Nation guarantees to Venezuelans:

1. The inviolability of life. Capital punishment shall not be established or applied by any law nor by order of any authority.

2. The enjoyment of property, which is inviolable, and which shall be subject only to the payment of taxes legally assessed. The expropriation of property shall be made in accordance with law, and only for public or social use by adversary proceedings and previous indemnification. Property owners are required to comply with all provisions on Public Hygiene, conservation of forests and water, and similar measures established by the laws for the benefit of the community.

The Law may, for reasons of national interest, establish special restrictions and prohibitions in connection with the acquisition and transfer of certain classes of property, whether because of its nature or condition, or because of its location within the territory. The Nation shall favour the preservation and wider creation of medium and small rural estates; and may expropriate through legal proceedings and prior indemnity, privately owned lands which are not being exploited, and may divide them and transfer title thereto under the conditions established by law.

Confiscation of property shall not be decreed or carried out, except in the following cases:

(1) As reprisals in an international war, against nationals of the country with which Venezuela is at war, if the former has previously decreed the confiscation of property belonging to Venezuelan citizens.

(2) As a measure of general interest to reimburse the National Treasury for the sums drawn by public officials who have been President of the Republic, Minister of a Department, or Governor of the Federal District or Federal Territories, when, in the judgment of the National Congress, they have committed an offence against the interests of the State or against property. The decision referred to in this paragraph shall be made by absolute majority of the members of Congress assembled in regular or special session, and shall be approved by two-thirds of the Legislative Assemblies of the States, in the same manner. Under this decision all the property of the public officials concerned, including property which they may inherit, shall be subject to confiscation, in accordance with the procedure established by the special law which shall be enacted for this purpose. This law shall be applied retroactively to the above-mentioned officials who have held office during the two previous presidential terms. In those cases in which the special reimbursement referred to above has been directed, the claims advanced by private persons against the official or individual who is affected by the reimbursement, or whose inheritance is involved, shall be satisfied out of the reasonable share of the property fixed in each case by the National Congress at the time of issuing the order of confiscation, and such claims shall be substantiated and adjudicated in accordance with the special procedure provided by the law referred to above.

The Legislative Assemblies of the States may insert this provision in their respective Constitutions, with regard to their Presidents and Secretaries General.

(3) The inviolability of correspondence in all its forms, and that of other private papers, which shall not be seized except by order of competent judicial authority and with the formalities established by law. . .

The books and documents of commercial and industrial establishments shall be subject, in accordance with the laws and regulations specially enacted, to inspection or examination by proper officials.

(4) The inviolability of the domicile, which shall not be forcibly entered, except to prevent the perpetration or consummation of a crime, or to carry out the orders issued, in accordance with law, by the courts in cases in which they have jurisdiction. The domicile shall also be subject to sanitary inspection in conformity with law.

(5) The enjoyment of personal liberty, and therefore:

(a) Forcible recruitment for military service is abolished, such service to be rendered in accordance with the provisions of the law.

(b) Slavery is forever forbidden, and all slaves who set foot on the territory of the Republic shall be free.

. . . . .

(6) The freedom of thought, expressed by word of mouth, in writing, or through the press, or by other means of publicity, but all expressions which are injurious, calumnious, defamatory, or insulting, or which instigate the commission of a crime, shall be subject to a penalty, as determined by law. Anonymous publications and war propaganda or propaganda tending to subvert the political or social order are likewise prohibited.

Communistic and anarchistic doctrines are considered against the independence, political organisation, and social peace of the Nation; and whoever expounds, propagates, or practises such doctrines shall be considered as traitors to the Nation and shall be punished as provided by law.

The Executive shall have the power at any time, whether the Constitutional guarantees are suspended or not, to prevent the entry of any individuals affiliated with any of the aforesaid doctrines into the territory of the Republic, or to expel them therefrom, for the period of six months to a year in the case of nationals, or for an indefinite time in the case of foreigners, whenever he shall consider that their entry into the territory of the Republic or their presence therein may be dangerous or prejudicial to the public order or social tranquillity.

(7) The freedom to travel, change domicile, depart from and return to the Republic, provided the legal formalities are observed; the right to take away or bring into the country their property, except as restricted by the requirements of public order or the interests of the Nation.

(8) The freedom to work and to engage in any industry. Consequently, no monopoly shall be granted for the exclusive control of any industry. However, the law may grant temporary privileges in connection with intellectual property, patents, and trade marks, as well as, for a limited time, for the establishment and exploitation of railroads, aerial navigation enterprises, building of canals, street railways, water-power projects, telephone, telegraph and wireless communications, whenever such works are carried out at the cost of the concessionnaire, without any financial guarantee or subsidy by the Nation or the States.

The law shall make the necessary provisions to stimulate and encourage labour, organising it in an adequate manner and establishing the special protection which shall be accorded to labourers and workers, in order to provide for the improvement of their physical, moral, and intellectual condition, and for the increase of the population.

The State shall encourage and aid production and shall establish working conditions in the city and in the country, with a view to the social protection of the worker and wage earner and the economic interests of the Nation.

The Republic shall have a National Economic Council, consisting of representatives from producers and consumers, capital and labour, and the learned professions. The Executive shall determine its functions and organisation.

Labour legislation shall observe the following rules, in addition to any others which may contribute to improve the conditions of the labourer or worker :

- (1) A day of rest each week, preferably Sunday;
- (2) Annual vacations, with pay;  
No distinction shall be made between manual and intellectual or technical work, for the purposes of these rules;
- (3) The Nation shall promote the technical training of the workers.

The Nation shall encourage European immigration, and shall promote, in co-operation with the State Governments and municipalities, the organisation of Agricultural Colonies. Agricultural work shall be the object of special regulation on the part of the Executive. The State shall place the wage earner in the rural community, shall look after his education, and shall give preference to the Venezuelan worker in the colonisation and development of national lands.

The Nation shall favour a system of participation by the employees and workers in the profits of their industry, and shall encourage savings among them.

(9) The freedom of industry and of labour shall have no limitations other than those imposed by public interest or good custom. However, the Executive has the power to levy taxes on certain classes of industry or labour, for the purpose of providing public revenue, or in order to reserve the control of certain industries to ensure public services and the defence and credit of the Nation.

(10) Professions which require a licence may not be practised without obtaining it and complying with the formalities required by law.

(11) The freedom of assembly without arms, publicly or privately, where the public order is not endangered, without the authorities having power to exercise any act of coercion; and the freedom of association, subject to the restrictions and prohibitions established by law. The law shall regulate the exercise of the right of assembly.

(12) The freedom to address petitions to any public official or official corporation, with the right to a prompt reply.

(15) The freedom of education.

The moral and civic education of the child is obligatory, and shall be guided of necessity by the national interest and human solidarity. There shall be at least one school in each locality whose student population is not less than thirty pupils.

(16) The freedom of religion, under the supreme supervision by the Executive of all religious denominations, in accordance with the laws, the State reserving to itself the right of Ecclesiastical Patronage which it has always enjoyed.

(17) Individual security, and therefore:

(a) No citizen shall be imprisoned or arrested for debts not arising out of a criminal offence.

.....

(18) The right of equality, in virtue of which:

(a) All persons shall be tried in accordance with the same laws, shall enjoy the equal protection of such laws throughout the territory of the Nation, and shall be subject to the same duties, services, and taxes, no one being exempted from the payment of taxes except in the cases provided by law.

.....

34. No Federal Law, nor the Constitutions or Laws of the States, nor municipal ordinances, nor any regulations, shall abridge or impair the rights guaranteed to the citizens. Those which have this effect shall be void, and shall be so declared by the courts.

### TITLE III. ALIENS

37. The rights and duties of aliens shall be determined by law but shall in no case be greater than those of Venezuelan citizens.

39. In no case may either nationals or aliens claim that the Nation, the States or the municipalities should compensate them for injury, loss or expropriations which have not been caused by legitimate authorities acting in their public character.

### TITLE IV. SOVEREIGNTY AND PUBLIC POWER

49. No contract of public interest concluded with the Federal Government, or with one of the States, or with one of the municipalities, or with any other public authority, may be transferred in whole or in part to a foreign Government, and all such contracts shall be deemed to include, whether or not it is expressly so specified, the following clause: "Doubts and controversies of any nature which may arise with reference to this contract and which cannot be resolved amicably



by the contracting parties shall be decided by the competent tribunals of Venezuela in conformity with its laws, and may not on any ground give rise to foreign claims." Nor may such contracts be made with companies not legally domiciled in Venezuela, nor may there be transferred to such companies rights under contracts concluded with third parties.

## TITLE V. THE LEGISLATIVE POWER

### *Section VI. Provisions Common to Both Chambers as Co-Legislative Bodies*

77. The Chamber of Deputies and the Senate, acting as co-legislative bodies, have the following attributions:

- (2) To decree loans on the national credit and determine everything relating to the national debt;
- (4) To legislate on the national currency, fixing its type, value, fineness, weight and minting, and concerning the admission and circulation of foreign money; but in no case and for no notice shall there be decreed or authorised the circulation of bank notes not covered by the exchange or metallic reserve determined by law, nor of any value represented in paper, as the gold standard shall always be maintained;
- (6) To approve or reject contracts for the construction of railways, aerial traction cables, telegraphic and radio stations, immigration and colonisation and others of national interest concluded by the Federal Executive and authorised by this Constitution and the laws. Mining titles and contracts and those concerning uncultivated lands are excepted;
- (7) To authorise the Federal Executive, on pain of nullity, to alienate real property belonging to the private patrimony of the Nation;
- (10) To examine whether in taking the National Census, on each occasion on which it is taken, the legal formalities have been observed and to this end the Federal Executive shall submit it to Congress;
- (13) To enact laws to encourage institutions of social solidarity;
- (18) To legislate on civil aviation;
- (21) To legislate concerning the electrical census, national education, the national army and fleet, the organisation of the national finances, maritime and fluvial navigation, wharves, posts, telegraphs, wireless communication, railways, national roads and transport thereby by mechanical and animal-drawn vehicles, uncultivated lands, saltworks, pearl fisheries and mines;
- (22) To legislate concerning the other matters mentioned in No. 4 of article 15 and, in general, concerning all matters which are of Federal competence.

## TITLE VI. THE FEDERAL EXECUTIVE POWER

### *Section III. The Attributions of the President of the United States of Venezuela*

100. The attributions of the President of the United States of Venezuela are:

- (12) To negotiate through the competent Minister and with the approval of the Cabinet the loans decreed by Congress in complete agreement with the provisions decreed;

- (21) To conclude through the competent Minister or Ministers and with the approval of the Council of Ministers the contracts of national interest permitted by this Constitution and the laws and to submit them to Congress;
- (22) To prohibit when he deems it desirable the entry of foreigners into the national territory or to expel them in the cases permitted by international law or provided for by this Constitution and the laws of the Republic;
- (26) To exercise in relation to the States the functions delegated to him by the Constitution of the States;
- (33) To have issued by the competent Minister titles of gratuitous adjudication, sale or lease of uncultivated lands and titles of mining concessions, in accordance with the laws.

## TITLE VIII. THE FEDERAL POWER

### *Section II. The Federal and Cassation Court*

123. The attributions of the Federal and Cassation Court are:

- (9) To declare the nullity of national, State and municipal laws when they conflict with the Constitution of the Republic. The nullity shall be limited to the paragraph, article or articles which are in conflict unless these are of such importance, by their connection with the others, that, in the opinion of the Court, their nullity involves that of the whole law.
- (11) To declare the nullity of acts of the Legislative Chambers or the Federal Executive which violate the rights guaranteed to the States or attack their autonomy; that of acts of the Legislative Assemblies and Municipal Councils which violate the restrictions formulated in paragraph 4, No. 4, of article 17 and in No. 4 of article 18; and in general of all acts of the Public Power which are in violation of this Constitution. . .
- (12) To decide in proceedings between parties all questions which may arise between the Nation and private individuals in consequence of or in connection with contracts concluded by the Federal Executive, or mining concessions, or uncultivated lands; with the exception of matters which by the law in force at the time of the conclusion of the contract, the grant of the concession, or the refusal to grant it, were subject to the decision of the Federal Executive without appeal to the Courts.

## STATES OF VENEZUELA

*The Constitutions of the States of Venezuela conform to a uniform pattern with only minor variations; it has therefore been thought sufficient to give extracts from one of these Constitutions and references to the others.*

### **Anzoategui**

#### Constitution of 8 January 1941<sup>1</sup>

10. The rights and duties of foreigners who may be in the territory of the State shall be those determined by the applicable national law.

<sup>1</sup> Spanish text in *Constitución del Estado Anzoategui*, 11 Jan. 1941.

11. The State guarantees to all Venezuelans who may be in its territory the same rights as the Nation guarantees to Venezuelans and therefore assure them:

- (1) to (18) *These clauses are in general substantially identical with the corresponding clauses of article 32 of the Constitution of the United States of Venezuela, pp. 425 to 428, the principal exceptions being that clause (2) contains no equivalent for paragraph (2) of the Federal text and that clause (8) contains only the first paragraph of the Federal text.*

22. *Substantially identical with article 49 of the Constitution of the United States of Venezuela, p. 428.*

38. The following are attributions of the Legislative Assembly:

- (8) To enact the organic laws of the public powers of the State and legislate on questions of internal administration, promoting the development of intellectual, moral and material interests and of social assistance, in accordance with the general laws of the Nation. . .  
 (15) To promote and encourage public education and establish free and compulsory primary education and free technical education;  
 (16) To promote the opening of communications of all kinds and the construction of other works of public utility.

65. The President of the State shall exercise the following attributions:

- (12) He shall undertake public works throughout the territory of the State and supervise their execution and the expenditure of the funds allocated for them;  
 (14) He shall promote and encourage by legal means the interests of the State, especially primary and technical education, public welfare, the protection of childhood, social assistance and communications.

### **Apure**

Constitution of 6 January 1942<sup>1</sup>

.....

### **Aragua**

Constitution of 14 January 1943<sup>2</sup>

.....

### **Barinas**

Constitution of 18 January 1938<sup>3</sup>

.....

<sup>1</sup> Spanish text in *Gaceta oficial del Estado Apure*, 6 Jan. 1942.

<sup>2</sup> Spanish text in *Gaceta oficial del Estado Aragua*, 14 Jan. 1943.

<sup>3</sup> Spanish text in *Gaceta oficial del Estado Barinas*, 25 Jan. 1938.

**Bolívar**Constitution of 9 April 1941<sup>1</sup>  
.....**Carabobo**Constitution of 22 January 1942<sup>2</sup>  
.....**Cojedes**Constitution of 6 January 1942<sup>3</sup>  
.....**Falcón**Constitution of 11 January 1938<sup>4</sup>  
.....**Guarico**Constitution of 24 January 1941<sup>5</sup>  
.....**Lara**Constitution of 28 January 1942<sup>6</sup>  
.....**Mérida**Constitution of 27 January 1939<sup>7</sup>  
.....

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<sup>1</sup> Spanish text in *Gaceta oficial del Estado Bolívar*, 9 Apr. 1941.

<sup>2</sup> Spanish text in *Gaceta oficial del Estado Carabobo*, 20 Feb. 1943.

<sup>3</sup> Spanish text in *Gaceta oficial del Estado Cojedes*, 6 Jan. 1942.

<sup>4</sup> Spanish text in *Gaceta oficial del Estado Falcón*, 15 Jan. 1938.

<sup>5</sup> Spanish text in *Gaceta oficial del Estado Guarico*, 30 Jan. 1941.

<sup>6</sup> Spanish text in *Gaceta oficial del Estado Lara*, 30 Jan. 1942.

<sup>7</sup> Spanish text in *Gaceta oficial del Estado Mérida*, 28 Jan. 1943.

**Miranda**

Constitution of 12 January 1938<sup>1</sup>

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**Monagas**

Constitution of 30 January 1940<sup>2</sup>

.....

**Nueva Esparta**

Constitution of 15 January 1938<sup>3</sup>

.....

**Portuguesa**

Constitution of 30 January 1942<sup>4</sup>

.....

**Sucre**

Constitution of 25 January 1938<sup>5</sup>

.....

**Tachira**

Constitution of 15 May 1942<sup>6</sup>

.....

**Trujillo**

Constitution of 27 January 1939<sup>7</sup>

.....

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<sup>1</sup> Spanish text in *Gaceta oficial del Estado Miranda*, 18 Jan. 1938.

<sup>2</sup> Spanish text in *Gaceta oficial del Estado Monagas*, 6 Feb. 1940.

<sup>3</sup> Spanish text in *Constitución del Estado Nueva Esparta*, Imprenta del Estado, La Asunción, 1938.

<sup>4</sup> Spanish text in *Gaceta oficial del Estado Portuguesa*, 30 May 1942.

<sup>5</sup> Spanish text in *Gaceta oficial del Estado Sucre*, 8 Feb. 1938.

<sup>6</sup> Spanish text in *Gaceta oficial del Estado Tachira*, 23 May 1942.

<sup>7</sup> Spanish text in *Gaceta oficial de Trujillo*, 28 Jan. 1939.

**Yaracuy**

Constitution of 14 January 1938<sup>1</sup>

.....

**Zulia**

Constitution of 29 January 1942<sup>2</sup>

.....

## FEDERAL DISTRICT

Organic Law of the Federal District<sup>3</sup>

*14 October 1936*

.....

## FEDERAL TERRITORIES

**Amacuro**

Organic Law of the Federal Territory of the Amacuro Delta<sup>4</sup>

*23 July 1940*

.....

**Amazonas**

Organic Law of the Federal Territory of Amazonas<sup>5</sup>

*31 July 1940*

## FEDERAL DEPENDENCIES

Organic Law of the Federal Dependencies<sup>6</sup>

*18 July 1938*

.....

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<sup>1</sup> Spanish text in *Gaceta oficial del Estado Yaracuy*, 5 Oct. 1938.

<sup>2</sup> Spanish text in *Gaceta oficial del Estado Zulia*, 26 Feb. 1942.

<sup>3</sup> *Recopilación de Leyes y Decretos de Venezuela*, tomo LIX, Vol. II, 1936, Edición oficial, 1937, pp. 357-370.

<sup>4</sup> *Idem*, tomo LXIII, Vol. II, pp. 55-64.

<sup>5</sup> *Ibid.*, pp. 170-179.

<sup>6</sup> *Ibid.*, pp. 45-48.

## PROVISIONAL ADMINISTRATION OF EUROPEAN COLONIES AND POSSESSIONS IN THE AMERICAS

Convention on the Provisional Administration of European  
Colonies and Possessions in the Americas  
Havana, 30 July 1940<sup>1</sup>

### I

If a non-American State shall directly or indirectly attempt to replace another non-American State in the sovereignty or control which it exercised over any territory located in the Americas, thus threatening the peace of the continent, such territory shall automatically come under the provisions of this Convention and shall be submitted to a provisional administrative régime.

### II

The administration shall be exercised, as may be considered advisable in each case, by one or more American States, with their previous approval.

### III

When the administration shall have been established for any region it shall be exercised in the interest of the security of the Americas and for the benefit of the region under administration, with a view to its welfare and progress, until such time as the region is in a position to govern itself or is restored to its former status, whenever the latter is compatible with the security of the American Republics.

### IV

The administration of the region shall be exercised under conditions which shall guarantee freedom of conscience and of worship, subject to the regulations which public order and good habits may demand.

### V

The administration shall enforce the local laws co-ordinating them with the purposes of this Convention, but it may furthermore adopt such measures as may be necessary to meet situations in which such laws do not exist.

### VI

In all that concerns commerce and industry, the American nations shall enjoy the same situation and benefits, and the administrator is forbidden to establish a privileged position for itself or its nationals or for certain States. Open economic relations shall be maintained with all countries on a reciprocity basis.

### VII

Natives of the region shall participate, as citizens, in public administration and in the courts of justice without further qualification than their capacity so to do.

### VIII

To the extent that it may be practicable, rights of every sort shall be governed by local law and custom, and vested rights shall be protected in accordance with such law.

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<sup>1</sup> Text from *Treaty Series 977*, U.S. Government Printing Office, Washington, 1942.

## IX

Forced labour shall be abolished in the regions where it exists.

## X

The administration shall provide facilities for education of all kinds with the two-fold purpose of developing the wealth of the region and improving the living conditions of the population, especially as regards public and individual hygiene and preparation for the exercise of political autonomy as soon as possible.

## XI

The natives of a region under administration shall have their own Organic Act which the administration shall establish, consulting the people in whatever manner is possible.

## XII

The administration shall submit an annual report to the inter-American organisation entrusted with the control of the regions under administration, of the manner in which it has fulfilled its functions, attaching thereto copies of its accounts and of the measures adopted in the region during the year.

## XIII

The organisation referred to in the preceding article shall be competent to take cognisance of the petitions submitted by inhabitants of the region through the medium of the administration, with reference to the exercise of the provisional administration. The administration shall transmit, with this petition, such observations as it may deem proper.

## XIV

The first administration shall be granted for a period of three years; at the end of this period, if necessary, it shall be renewed for successive periods not longer than ten years.

## XV

The expenses incurred in the exercise of the administration shall be defrayed with the revenues of the region under administration but in case they are insufficient the deficit shall be met by the State or States which act as administrators.

## XVI

A commission to be known as the "Inter-American Commission for Territorial Administration" is hereby established, to be composed of a representative from each one of the States which ratifies this Convention; it shall be the international organisation to which this Convention refers. Once this Convention has become effective, any country which ratifies it may convoke the first meeting proposing the city in which it is to be held. The Commission shall elect its chairman, complete its organisation and fix its definitive seat. Two-thirds of the members of the Commission shall constitute a quorum and two-thirds of the members present may adopt decisions.

## XVII

The Commission is authorised to establish a provisional administration in the regions to which the present Convention refers; allow such administration to be exercised by the number of States which it may determine in each case, and supervise its exercise under the terms of the preceding articles.

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# Asia

## ADEN

Order in Council Providing for the Government of the Colony<sup>1</sup>

*26 September 1936*

21. No subject of His Majesty shall on grounds only of religion, place of birth, descent, colour, or any of them be ineligible for office under the Crown in the Colony, or be prohibited on any such grounds from entering the Colony or from acquiring, holding or disposing of property or carrying on any occupation, trade, business or profession in the Colony.

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## AFGHANISTAN

Fundamental Principles of the Government of Afghanistan<sup>2</sup>

*23 October 1931 (with Addendum of 22 February 1933)*

### GENERAL RIGHTS OF AFGHAN SUBJECTS

9. All persons residing in the Kingdom of Afghanistan are called Afghan subjects without any distinction of creed and religion. Afghan nationality is acquired or lost in accordance with the nationality laws.

10. All Afghan subjects, although required to observe the injunctions and prohibitions of their Government in religious and political matters, are free to enjoy all rights conferred by Shariat law.

11. There is no interference with personal liberty. . . The practice of slavery is forbidden in Afghanistan. No male or female may keep any person as a slave.

12. Afghan subjects are free, within the limits of the appropriate regulations, in all matters relating to trade, industry and agriculture.

13. All Afghan subjects have equal rights and duties under the Shariat law and the law of the State.

15. In Afghanistan the movable and immovable property of everyone is protected. In the event of any immovable property being required by Government in the public interest, the value of it will be paid to the owner according to Shariat law and the special Code concerned, before it is taken over.

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<sup>1</sup> Text from *Constitutions of All Countries*, Vol. I, p. 372.

<sup>2</sup> Text from *British and Foreign State Papers*, Vol. 134, 1931, pp. 1192-1204.

17. Confiscation of both movable and immovable property is forbidden, with the exception of that belonging to persons residing abroad making propaganda or intrigues against the Afghan Government.

18. Levies of money and forced labour are prohibited, except during time of war.

19. The rack and other kinds of torture are absolutely abolished. No punishment can be inflicted which is not prescribed by the law of the land and the sacred Shariat law.

20. Primary education for the children of Afghan subjects is compulsory.

21. In Afghanistan, instruction in the knowledge of Islam is unrestricted. Every Afghan subject is permitted to impart Islamic religious instruction. Foreigners, however, with the exception of those engaged to teach arts, industries and foreign languages, are not permitted to open and conduct schools in the Kingdom of Afghanistan.

22. The public schools in Afghanistan are under the supervision of the Government, so that the education and culture imparted by these institutions may, without infringing the articles of the Islamic faith, provide the benefits which accrue from the study of literature, art and science. But there will be no interference with principles of education which are concerned with the faith and religion of the "Ahl-i-Zimma".

23. Publications and newspapers of Afghanistan, such as are not against religion, are under no restrictions save as provided by the special law relating to them. The right of publishing news belongs only to the Government and to Afghan subjects. The entry into Afghanistan of foreign newspapers which do not contain matter against religion and the policy of the Afghan Government is unrestricted.

#### SHURA-I-MILLI (NATIONAL COUNCIL)

##### *Duties*

45. Grants of concessions or the formation of companies and public firms of every kind will be sanctioned by the National Council.

46. Contracts, agreements and grants of concessions (monopolies), whether relating to trade, industry, agriculture, etc., and whether Afghan or foreign, will be concluded with the approval of the National Council.

47. Every loan raised by the Government, whether in the country or abroad, shall first be approved by the National Council.

48. Extension of public highways and (building of) railways, whether to be paid for by Government or Afghan or foreign firms or companies, depends entirely upon the approval of the National Council.

##### *Introduction of Measures by the Council*

65. Measures passed by the National Council should not contravene the canons of the religion of Islam or the policy of the country.

##### ADDENDUM<sup>1</sup>

2. Foreign subjects have absolutely no right to own land in Afghanistan. Foreign Legations in Afghanistan will, in accordance with agreements concluded with their respective countries, be accorded reciprocal treatment.

<sup>1</sup> *Islah*, 22 Feb. 1933.

## BHUTAN

Treaty between the Viceroy of India and their Highnesses the Dhurm and Deb Rajahs of Bhutan of 11 November 1865, as Amended by the Treaty between the Viceroy of India and His Highness the Maharaja of Bhutan of 8 January 1910<sup>1</sup>

8. (As amended in 1910). The British Government undertakes to exercise no interference in the internal administration of Bhutan. On its part, the Bhutanese Government agrees to be guided by the advice of the British Government in regard to its external relations. . .

9. There shall be free trade and commerce between the two Governments. No duties shall be levied on Bhutanese goods imported into British territories nor shall the Bhutan Government levy any duties on British goods imported into, or transported through, the Bhutan territories. Bhutanese subjects residing in British territories shall have equal justice with British subjects, and British subjects residing in Bhutan shall have equal justice with the subjects of the Bhutan Government.

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## BORNEO

### British North Borneo

Charter Granted to the British North Borneo Company<sup>2</sup>

*1 November 1881*

7. The Company shall, to the best of its power, discourage, and so far as may be practicable, abolish by degrees, any system of domestic servitude existing among the tribes of the coast or interior of Borneo; and no foreigner, whether European, Chinese, or other, shall be allowed to own slaves of any kind in the Company's territories.

8. The Company as such, or its officers as such, shall not in any way interfere with the religion of any class or tribe of the people of Borneo, or of any of the inhabitants thereof.

9. In the administration of justice by the Company to the people of Borneo, or to any of the inhabitants thereof, careful regard shall always be had to the customs and laws of the class or tribe or nation to which the parties respectively belong, especially with respect to the holding, possession, transfer and disposition of lands and goods, and testate or intestate succession thereto, and marriage, divorce, and legitimacy, and other rights of property and personal rights.

10. If at any time our Secretary of State thinks fit to dissent from or object to any part of the proceedings or system of the Company relative to the people

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<sup>1</sup> Text from *India, Foreign Department. A Collection of Treaties, Engagements and Sanads*, edited by C. ALISON, 5th edition, Vol. XIV, 1929, pp. 88-93.

<sup>2</sup> Text from *British and Foreign State Papers*, Vol. 73, 1881-1882, pp. 359-370.

of Borneo, or to any of the inhabitants thereof, in respect of slavery or religion, or the administration of justice or other matter, and to make to the Company any suggestion founded on that dissent or objection, the Company shall act in accordance therewith.

17. Nothing in this our Charter shall be deemed to authorise the Company to set up or grant any general monopoly of trade, and subject only to customs duties imposed for revenue purposes, and to restrictions on importation similar in character to those applicable in our United Kingdom, trade with the Company's territories shall be free.

Agreement between the British Government and the British  
North Borneo Company, for the Establishment  
of a British Protectorate<sup>1</sup>

*London, 12 May 1883*

2. The State of North Borneo shall continue to be governed and administered as an independent State by the Company in conformity with the provisions of the said Charter, under the protection of Great Britain; but such protection shall confer no right on Her Majesty's Government to interfere with the internal administration of that State further than is provided herein by the Charter of the Company.

5. British subjects, commerce and shipping shall enjoy the same rights, privileges and advantages as the subjects, commerce and shipping of the most favoured nation, as well as any other rights, privileges and advantages which may be enjoyed by the subjects, commerce and shipping of the State of North Borneo.

6. No cession or other alienation of any part of the territory of North Borneo shall be made by its Government to any foreign State, or the subjects or citizens thereof, without the consent of Her Majesty's Government, but this restriction shall not apply to ordinary grants or leases of land or houses to private individuals for purposes of residence, agriculture, commerce or other business.

**Brunei**

Agreement between the British Government and the Sultan of  
Brunei for the Establishment of a Protectorate<sup>2</sup>

*Brunei, 17 September 1888*

1. The State of Brunei shall continue to be governed and administered by the said Sultan Hashim Jalilul Alam Akamanen and his successors as an independent State, under the protection of Great Britain; but such protection shall confer no right on Her Majesty's Government to interfere with the internal administration of that State further than is herein provided.

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<sup>1</sup> Text from *British and Foreign State Papers*, Vol. 79, 1887-1888, pp. 237-238.

<sup>2</sup> *Ibid.*, pp. 240-241.

5. British subjects, commerce and shipping shall, in addition to the rights, privileges and advantages now secured to them by treaty, be entitled to participate in any other rights, privileges and advantages which may be enjoyed by the subjects, commerce, and shipping of the State of Brunei.

6. No cession or alienation of any part of the territory of the State of Brunei shall be made by the Sultan to any foreign State, or the subjects or citizens thereof, without the consent of His Majesty's Government; but this restriction shall not apply to ordinary grants or leases of lands or houses to private individuals for purposes of residence, agriculture, commerce or other business.

### Supplementary Agreement between Great Britain and Brunei respecting British Protection over the State of Brunei<sup>1</sup>

*3 December 1905 and 2 January 1906*

1. His Highness will receive a British officer, to be styled Resident, and will provide a suitable Residence for him. The Resident will be the Agent and Representative of His Britannic Majesty's Government under the High Commissioner for the British Protectorate in Borneo, and his advice must be taken and acted upon on all questions in Brunei, other than those affecting the Mohammedan religion, in order that a similar system may be established to that existing in other Malay States now under British Protection.

### Sarawak

#### Agreement between the British Government and the Rajah of Sarawak for a British Protectorate<sup>2</sup>

*Sarawak, 14 June 1888 and London, 5 September 1888*

1. The State of Sarawak shall continue to be governed and administered by the said Rajah Brooke and his successors as an independent State under the protection of Great Britain; but such protection shall confer no right on Her Majesty's Government to interfere with the internal administration of that State further than is herein provided.

5 and 6. *Substantially identical with articles 5 and 6 of the Agreement with the British North Borneo Company, p. 440.*

<sup>1</sup> Text from W. G. MAXWELL and W. S. GIBSON: *Treaties and Engagements affecting the Malay States and Borneo*, London, 1924, pp. 151-152.

<sup>2</sup> Text from *British and Foreign State Papers*, Vol. 79, 1887-1888, pp. 238-239.

Constitution<sup>1</sup>*24 September 1941*

## PREAMBLE

Whereas in a Proclamation dated 31st March, 1941, We pronounced Our Will and intention to commemorate this Centenary year of the Government of Sarawak by English Rajahs by terminating forever the Era of Autocratic Rule which has so far characterised Our Government and by substituting therefor a Constitution whereby to bind Ourselves and Our Heirs and Successors in such manner as to ensure that Our Beloved Subjects shall ultimately enjoy their inherent right to control their own lives and destinies;

And Whereas We are profoundly conscious of the responsibilities that are Ours by reason of the possession and enjoyment of the Unique Heritage by virtue of which We have become the Trustee for the time being of the lives, welfare and future of persons of divers races and creeds who are Our Subjects;

And Whereas it appears to Us that the people of Sarawak have not yet attained that sufficient degree of advancement and education which would permit Us, with a proper and conscientious regard for their benefit and interests, to release to them the power of the governance of themselves;

And Whereas, nevertheless, it seems to Us to be now right and proper that a step forward should be taken in the direction of the ultimate goal of the self government of Our people;

And Whereas We do this day sign this Order which will not only give effect to the aforesaid decision but will inaugurate a Constitution designed to introduce into Sarawak a system of Government which we are convinced will contribute to the happiness, welfare and prosperity of Our people;

Now Therefore Is It Meet that We should Pronounce and Declare the Principles of Government which have actuated Our predecessors and Ourselves during the one hundred years of the rule of the English Rajahs: And We do urge that these same Principles which have brought peace and contentment to Our people may serve to guide the Members of the Councils of State who will hereafter be responsible for the good government of Sarawak.

Let the Cardinal Principles of the Rule of the English Rajahs as set out hereunder therefore ever be remembered:

(1) That Sarawak is the heritage of Our Subjects and is held in trust by Ourselves for them.

(2) That social and educational services shall be developed and improved and the standard of living of the people of Sarawak shall steadily be raised.

(3) That never shall any person or persons be granted rights inconsistent with those of the people of this country or be in any way permitted to exploit Our Subjects or those who have sought Our protection and care.

(4) That justice shall be easily obtainable and that the Rajah and every public servant shall be freely accessible to the public.

(5) That freedom of expression both in speech and in writing shall be permitted and encouraged and that everyone shall be entitled to worship as he pleases.

(6) That public servants shall ever remember that they are but the servants of the people on whose good will and co-operation they are entirely dependent.

(7) That so far as may be Our Subjects of whatever race or creed shall be

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<sup>1</sup>Text from *The Sarawak Government Gazette*, Vol. XXXIV, 24 Sept. 1941, No. 27, Vol. XXXIV, 31 Mar. 1941, No. 11.

freely and impartially admitted to offices in Our Service, the duties of which they may be qualified by their education, ability and integrity duly to discharge.

(8) That the goal of self government shall always be kept in mind, that the people of Sarawak shall be entrusted in due course with the governance of themselves, and that continuous efforts shall be made to hasten the reaching of this goal by educating them in the obligations, the responsibilities, and the privileges of citizenship.

(9) That the general policy of Our predecessors and Ourselves whereby the various races of the State have been enabled to live in happiness and harmony together shall be adhered to by Our successors and Our Servants and all who may follow them hereafter.

It is hereby enacted by His Highness the Rajah as follows:

.....

16. As from and including the first day of January nineteen hundred and forty-two no public money shall be expended or any charge whatsoever made upon the revenues of the State except with the consent of the Council Negri: provided that the Treasurer of Sarawak may with the concurrence of the Rajah in Council authorise the appropriation of any sum subject to the subsequent consent of the Council Negri being obtained.

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## BURMA

### Government of Burma Act 1935<sup>1</sup>

*26 Geo. 5, 1935, c. 3*

#### PART II. THE EXECUTIVE

8. *Special responsibilities of Governor.* (1) In the exercise of his functions the Governor shall have the following special responsibilities, that is to say:

- (a) The prevention of any grave menace to the peace or tranquillity of Burma or any part thereof;
- (b) The safeguarding of the financial stability and credit of the Government of Burma;
- (c) The safeguarding of the legitimate interests of minorities;
- (d) The securing to, and to the dependants of, persons who are or have been members of the public services, of any rights provided or preserved for them by or under this Act, and the safeguarding of their legitimate interests;
- (e) The securing in the sphere of executive action of the purposes which the provisions of part V of this Act are designed to secure in relation to legislation;
- (f) The prevention of action which would subject goods of United Kingdom or Indian origin imported into Burma to discriminatory or penal treatment;

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<sup>1</sup> Text from *Law Reports — Statutes*, Vol. I, 1936, pp. 332-437.

- (h) The securing that the due discharge of his functions with respect to matters with respect to which he is by or under this Act required to act in his discretion, or to exercise his individual judgment, is not prejudiced or impeded by any course of action taken with respect to any other matter.

(2) If, and in so far as, any special responsibility of the Governor is involved, he shall, in the exercise of his functions, exercise his individual judgment as to the action to be taken.

#### PART IV. LEGISLATION

##### *36. Previous sanction of Governor required for certain legislative proposals.*

(1) Unless the Governor in his discretion thinks fit to give his previous sanction, there shall not be introduced into, or moved in, either Chamber of the Legislature, any bill or any amendment which:

- (a) Repeals, amends or is repugnant to any provisions of any Act of Parliament extending to Burma; or
- (b) Repeals, amends or is repugnant to any Governor's Act, or any ordinance promulgated in his discretion by the Governor; or
- (c) Affects matters as respects which the Governor is by or under this Act required to act in his discretion; or . . .
- (f) Subjects persons not resident in Burma to greater taxation than persons resident in Burma, or subjects companies not wholly controlled and managed in Burma to greater taxation than companies wholly controlled and managed therein; or
- (g) Affects the grant of relief from any Burma tax on income in respect of income taxes or taxable in the United Kingdom; or
- (h) Affects immigration into Burma.

(2) Nothing in this section affects the operation of any other provision in this Act which requires the previous sanction of the Governor to the introduction of any bill or the moving of any amendment.

#### PART V. RESTRICTIONS ON DISCRIMINATION, ETC.

##### *44. British subjects domiciled in the United Kingdom and British India.*

(1) Subject to the provisions of this part of this Act, a British subject domiciled in the United Kingdom shall be exempt from the operation of so much of any Act of the Legislature as imposes any restriction on the right of entry into Burma:

Provided that no person shall by virtue of this sub-section be entitled to claim exemption from any such restriction, if and so long as British subjects domiciled in Burma are by or under the law of the United Kingdom subject in the United Kingdom to a like restriction.

For the purposes of this sub-section, a provision, whether of the law of Burma or of the law of the United Kingdom, empowering any public authority to impose quarantine regulations, or to exclude or deport individuals wherever domiciled who appear to that authority to be undesirable persons, shall be deemed not to be a restriction on the right of entry.

(2) Subject to the provisions of this part of this Act, a British subject domiciled in the United Kingdom shall be exempt from the operation of so much of any Act of the Legislature as imposes by reference to place of birth, race, descent, language, religion, domicile, residence, or duration of residence, any disability, liability, restriction or condition in regard to travel, residence, the acquisition,



holding, or disposition of property, the holding of public office, or the carrying on of any occupation, trade, business or profession.

Provided that no such person as aforesaid shall by virtue of this sub-section be entitled to exemption from any such disability, liability, restriction, or condition as aforesaid if and so long as British subjects domiciled in Burma are by or under the law of the United Kingdom subject in the United Kingdom to a like disability, liability, restriction or condition imposed in regard to the same subject matter by reference to the same principle of distinction.

(3) The provisions of sub-section (2) of this section shall apply in relation to British subjects domiciled in India and subjects of any Indian State as they apply in relation to British subjects domiciled in the United Kingdom, but with the substitution in the proviso to the said sub-section for references to the United Kingdom of references to British India or, as the case may be, that Indian State:

Provided that nothing in this sub-section shall affect any restriction lawfully imposed on the right of entry into Burma of persons who are British subjects domiciled in India or subjects of any Indian State, or any restriction lawfully imposed as a condition of allowing any such person to enter Burma.

(4) Notwithstanding anything in this section, if the Governor by public notification certifies that for the prevention of any grave menace to the peace or tranquillity of any part of Burma, or for the purposes of combating crimes of violence intended to overthrow the Government, it is expedient that the operation of the provisions of this section should be wholly or partially suspended in relation to any Act, then while the notification is in force the operation of those provisions shall be suspended accordingly.

The functions of the Governor under this sub-section shall be exercised by him in his discretion.

45. *Taxation.* (1) and (2) (*Substantially identical with sec. 112 (1) and (2) of the Govt. of India Act, pp. 472-473.*)

46. *Companies.* (1) and (2) (*Substantially identical with sec. 113 (1) and (2) of the Govt. of India Act, p. 473.*)

(3) The provisions of the two last preceding sub-sections shall apply in relation to companies incorporated by or under the laws of British India as they apply in relation to companies incorporated by or under the laws of the United Kingdom, with the substitution for references to the United Kingdom of references to British India.

(4) and (5) (*Substantially identical with sec. 114 (1) and (2) of the Govt. of India Act, pp. 473-474.*)

(6) The provisions of the two last preceding sub-sections shall apply in relation to British subjects domiciled in British India and to subjects of any Indian State as they apply in relation to British subjects domiciled in the United Kingdom, with the substitution for references to the United Kingdom of references to British India or that Indian State, as the case may be.

47. *Ships and aircraft.* (1) (*Substantially identical with sec. 115 (1) of the Govt. of India Act, p. 474.*)

(2) The provisions of this section shall apply in relation to ships registered in British India as they apply in relation to ships registered in the United Kingdom with the substitution for references to the United Kingdom of references to British India.

(3) and (4) (*Identical with sec. 115 (2) and (3) of the Govt. of India Act, p. 474.*)

48. *Subsidies for the encouragement of trade or industry.* (1) — (3) (*Substantially identical with sec. 116 (1) — (3) of the Govt. of India Act, pp. 474-475.*)

(4) The foregoing provisions of this section shall apply in relation to com-

panies incorporated by or under the laws of British India as they apply in relation to companies incorporated by or under the laws of the United Kingdom with the substitution for references to the United Kingdom of references to British India.

49. *Supplemental. (Substantially identical with sec. 117 of the Govt. of India Act, p. 475.)*

50. *Power to secure reciprocal treatment by convention. (1) (Substantially identical with sec. 118 (1) of the Govt. of India Act, p. 475.)*

(2) As from the establishment of the Federation of India, the provisions of sub-section (1) of this section shall apply in relation to British subjects domiciled in British India and to companies incorporated by or under the laws of British India as they apply in relation to British subjects domiciled in the United Kingdom and companies incorporated by or under the laws of the United Kingdom, with the substitution for references to His Majesty's Government in the United Kingdom, and the United Kingdom, of references to the Federal Government and British India.

(3) *(Substantially identical with sec. 118 (2) of the Govt. of India Act, p. 475.)*

51. *Professional and technical qualifications in general. (1) No bill or amendment which prescribes or empowers any authority to prescribe the professional or technical qualifications which are to be requisite for any purpose in Burma shall be introduced or moved in either Chamber of the Legislature without the previous sanction of the Governor in his discretion.*

(2) and (3) *(Substantially identical with sec. 119 (2) and (3) of the Govt. of India Act, pp. 475-476.)*

(4) If the Governor exercising his individual judgment by public notification directs that the provisions of the last preceding sub-section shall apply in relation to any existing Indian or Burman law, those provisions shall apply in relation to that law accordingly.

52. *Medical qualifications. (1)—(4) (Substantially identical with sec. 120 (1)—(4) of the Govt. of India Act, pp. 476-477.)*

(5) The foregoing provisions of this section shall, subject to the modifications hereinafter mentioned, apply in relation to British subjects domiciled in India who, by virtue of medical diplomas granted to them in British India or the United Kingdom, are, or are entitled to be, registered in the United Kingdom as qualified medical practitioners as they apply in relation to British subjects domiciled in the United Kingdom who, by virtue of medical diplomas granted in the United Kingdom, are, or are entitled to be, registered in the United Kingdom as qualified medical practitioners.

The said modifications are as follows, that is to say:

- (a) Sub-section (3) shall not apply and the reference in sub-section (1) to the condition set out therein shall be deemed to be omitted;
- (b) Any reference in sub-section (2) or sub-section (4) to the United Kingdom shall be construed as a reference to British India.

(6) and (7) *(Substantially identical with sec. 120 (6) and (7) of the Govt. of India Act, p. 477.)*

53. *Medical Officers of His Majesty's forces. (Substantially identical with sec. 121 of the Govt. of India Act, p. 477.)*

54. *Application to certain companies. In this part of this Act:*

- (a) References to companies incorporated by or under the laws of Burma include references to companies incorporated by or under the laws of British India and registered in Burma, but do not include references to companies so incorporated which were registered elsewhere;
- (b) References to companies incorporated by or under the laws of British India do not include references to companies registered in Burma.

## PART VI. FINANCE

56. *Expenditure defrayable out of revenues of Burma. (Substantially identical with sec. 150 (1) of the Govt. of India Act, p. 482.)*

## PART VII. THE BURMA RAILWAY BOARD

71. *Directions and principles to be observed by Railway Board. (Substantially identical with sec. 183 of the Govt. of India Act, p. 484.)*

79. *Railway Rates Committee. (Substantially identical with sec. 191 of the Govt. of India Act, p. 485.)*

80. *Bills and amendments for regulating rates and fares to require recommendation of Governor. (Substantially identical with sec. 192 of the Govt. of India Act, p. 485.)*

## PART IX. THE SERVICES OF THE CROWN IN BURMA

103. *Special provision as to irrigation. (Substantially identical with sec. 245 of the Govt. of India Act, p. 486.)*

127. *Persons not to be disqualified by sex for holding certain offices in Burma.* A person shall not be disqualified by sex for being appointed to any civil service of, or civil post under, the Crown in Burma other than such a service or post as may be specified by any general or special order made by the Secretary of State in relation to appointments made by him, or by the Governor in relation to other appointments.

## PART XI. MISCELLANEOUS PROVISIONS AS TO RELATIONS WITH INDIA

137. *Provisions as to monetary system.* His Majesty in Council may make such provision with respect to the monetary system of Burma and matters connected therewith or ancillary thereto as he thinks fit and in particular, but without prejudice to the generality of this section, such provision as may appear to him to be necessary or proper for the purpose of giving effect to any arrangements with respect to the said matters made before the commencement of this Act with the approval of the Secretary of State by the Governor of Burma in Council.

138. *Provisions as to immigration from India.* His Majesty may by Order in Council direct that, during such period as may be specified in the Order, immigration into Burma from India shall be subject to such restrictions as may be specified in the Order (being such restrictions as may have been mutually agreed before the commencement of this Act between the Governor of Burma in Council and the Governor-General of India in Council and approved by the Secretary of State, or in default of agreement as may have been prescribed by the Secretary of State), and no other restrictions:

Provided that any such Order may be varied by a subsequent Order in Council in such manner as appears to His Majesty necessary to give effect to any agreement in that behalf made after the commencement of this Act by the Governor with the Governor-General of India or the Governor-General of India in Council.

## PART XIV. MISCELLANEOUS

144. *Persons not to be subjected to disability by reason of race, religion, etc. (1) — (3) (Substantially identical with sec. 298 (1) — (3) of the Govt. of India Act, p. 487.)*

145. *Compulsory acquisition of land, etc.* (1) — (5) (*Substantially identical with sec. 299 (1) — (5) of the Govt. of India Act, pp. 487-488.*)

### THIRD SCHEDULE. COMPOSITION OF THE BURMA LEGISLATURE

#### *The House of Representatives*

#### 3. Of the seats in the House of Representatives:

- (f) Eleven seats shall be filled by representatives of Commerce and Industry;
- (h) Two seats shall be filled by representatives of Indian Labour;
- (i) Two seats shall be filled by representatives of non-Indian Labour.

4. So much of Burma as His Majesty may deem suitable for inclusion in any constituency, or in any constituency of a particular class, shall be divided into territorial constituencies:

- (iv) For the election of persons as representatives of Indian Labour;
- (v) For the election of persons as representatives of non-Indian Labour, and in the case of each class of constituency as aforesaid the total number of seats available shall be distributed between the constituencies by the assignment of one or more of those seats to each constituency.

7. Persons shall be chosen in such manner as may be prescribed to hold the seats to be filled by representatives of Commerce and Industry and Rangoon University.

8. Of the seats to be filled by representatives of Commerce and Industry, one shall be filled by a representative of the Burmese Chamber of Commerce, two shall be filled by representatives of the Burma Indian Chamber of Commerce, one shall be filled by a representative of the Nattukottai Chettiars' Association, five shall be filled by representatives of the Burma Chamber of Commerce, one shall be filled by a representative of the Rangoon Trades Association and one shall be filled by a representative of the Chinese Chamber of Commerce.

9. A person shall not be qualified to be chosen to fill a seat in the House of Representatives unless:

- (a) In the case of a seat to be filled by representatives of Commerce and Industry, of a representative of Rangoon University or of representatives of Indian Labour or non-Indian Labour, he possesses such qualifications as may be prescribed.

#### Instrument of Instructions to the Governor<sup>1</sup>

10. Our Governor shall interpret his special responsibility for the safeguarding of the legitimate interests of minorities as requiring him to secure, in general, that those racial communities for the members of which special representation is accorded in the Legislature, and those classes who, whether on account of the smallness of their number or their primitive condition or their lack of educational or material advantages or from any other cause, cannot as yet fully rely for their welfare on joint political action in the Legislature, shall not suffer, or have reasonable cause to fear, neglect or oppression. But he shall not regard as entitled to

<sup>1</sup> Text from Draft of Instrument of Instructions which it is proposed to recommend His Majesty to issue to the Governor of Burma. Presented to Parliament pursuant to the Government of Burma Act, 1935, section 9. *British Parliamentary Papers*, Vol. XX, 1936-1937; *Accounts and Papers*, Vol. 5, pp. 981-990.

his protection any body of persons by reason only that they share a view on a particular question which has not found favour with the majority.

Further, Our Governor shall interpret the said special responsibility as requiring him to secure that the members of the several communities are afforded full opportunity to obtain the appointments in Our Services to which their qualifications and attainments entitle them, and also as requiring him, if it should appear to him that the members of any community are unfairly prejudiced in this regard and that there is no other means of redress, to reserve a due proportion of appointments for occupation by members of each community; provided always that the proportions so reserved may be varied if a sufficient number of properly qualified candidates is not available in respect of any particular community. If the need for any such regulations should in the opinion of Our Governor arise he shall in framing them have due regard to the past association of the Anglo-Burman community with the customs, postal and telegraph services and the various branches of the Railway Service.

Nevertheless, in so far as there may be before the issue of these Our Instructions an accepted policy in respect of any Department having for its object the readjustment of the under-representation in that Department of a particular community, Our Governor shall continue to be guided thereby unless he is fully satisfied that modification is essential in the interests of the welfare of the public.

Further, it shall be the duty of Our Governor in his interpretation of the said responsibility in relation to matters affecting education, to secure that educational institutions maintained primarily for the benefit of the said communities receive from the revenues of Burma or from local educational authorities as the case may be, such proportion of grants as in his opinion is equitable and appropriate to the types and grades of such institutions and to attendance thereat, and, in particular, but without prejudice to the generality of the foregoing interpretation, he shall, in relation to educational institutions maintained primarily for the European and Anglo-Burman communities, see to it that such institutions continue, while efficient, to receive grants not less in amount than the average of those received in the ten financial years ending on 31st March, 1933; provided that such grants may be reduced proportionately to a reduction in the sums voted on behalf of educational institutions of corresponding grades generally in Burma, and that a grant to any particular institution may be reduced if, and in proportion as, the attendance at that institution declines.

13. In the discharge of his special responsibility for the prevention of measures which would subject goods of United Kingdom or Indian origin imported into Burma to discriminatory or penal treatment, Our Governor shall avoid action which would affect the competence of his Government and of the Legislature to develop their own fiscal and economic policy, or would restrict their freedom to negotiate trade agreements, whether with the United Kingdom or India or with other countries for the securing of mutual tariff concessions; and so far as concerns this special responsibility he should intervene in tariff policy or in the negotiation of tariff agreements only if, in his opinion, the main intention of the policy contemplated is, by trade restrictions, to injure the interests of the United Kingdom or India rather than to further the economic interests of Burma. And We require and charge Our Governor to regard the discriminatory or penal treatment covered by this special responsibility as including both direct discrimination (whether by means of differential tariff rates or by means of differential restrictions on imports) and indirect discrimination by means of differential treatment of various types of products; and Our Governor's special responsibility extends to preventing the imposition of prohibitory tariffs or restrictions, if he is satisfied that such measures are proposed with the aforesaid intention. It also extends, subject to the aforesaid intention, to measures which, though not discriminatory or penal in form, would be so in fact.

Our Governor shall, furthermore, bear always in mind the partnership between

Burma, India and the United Kingdom within Our Empire which has so long subsisted and the mutual obligations which arise therefrom.

19. Without prejudice to the generality of his powers as to the reservation of bills, Our Governor shall not assent in Our Name to, but shall reserve for the signification of Our pleasure, any bill of any of the classes herein specified, that is to say:

.....

(c) Any bill regarding which he feels doubt whether it does, or does not, offend against the purposes of part V section one hundred and forty-five of the Act.

20. Our Governor shall not, before he has consulted Our Governor-General of India, give his sanction to the introduction in either Chamber of the Legislature of any measure which, in his judgment, is likely to restrict the right of entry into Burma of subjects of His Majesty domiciled in British India or of the subjects of any Indian State; and it is Our desire that Our Governor of Burma shall, as soon as may be found expedient, confer with Our Governor-General of India with a view to the regulation of the emigration from India and immigration into Burma of unskilled Indian labour.

23. And generally Our Governor shall do all that in him lies to maintain standards of good administration; to promote all measures making for moral, social and economic welfare and tending to fit all classes of the population to take their due share in the public life and government of Burma; and to secure amongst all classes and creeds co-operation, good will and mutual respect for religious beliefs and sentiments; he shall further have regard to this Instruction in the exercise of the powers by law conferred upon him in relation to matters whether of legislation or of executive government.

## The Shan States

Form of Sanad Granted to the Sawbwas of the Shan States<sup>1</sup>

1889

Whereas the TO OF  
 Whereas the was formerly a of  
 subject to the King of Burma, and the Governor-General of India in Council has  
 now been pleased to recognise you as of  
 and, subject to the provisions of any law for the time being in force, to permit  
 you to administer the territory of in all  
 matters, whether civil, criminal, or revenue, and at any time to nominate, for the  
 approval of the Chief Commissioner, a fit person according to Shan usage to be your  
 successor in the

*Paragraph 2.* The Chief Commissioner of Burma, with the approval of the  
 Governor-General of India in Council, hereby prescribes the following conditions  
 under which your nomination as of is made. Should you fail to comply with any  
 of these conditions, you will be liable to have your powers as of rescinded.

<sup>1</sup> Text from *India, Foreign Department. A Collection of Treaties, Engagements and Sanads*, edited by C. ARCHISON, 5th edition, Vol. XII, 1929, pp. 271-272. For the slightly different form of Sanad for Western Karenni Chiefs, see *ibid.*, pp. 281-283.

(2) The Government reserves to itself the proprietary right in all forests, mines, and minerals. If you are permitted to work, or to let on lease any forest or forests in your State, you shall pay such sums for rent or royalty as the local Government may from time to time direct; and in the working of such forests you shall be guided by such rules and orders as the Government of India may from time to time prescribe. If you are permitted to work or let on lease any mine or mines in your State, you shall pay such royalty on all metals, precious stones, and other minerals produced in \_\_\_\_\_ as the Governor-General in Council may from time to time direct.

(3) You shall administer the territory of \_\_\_\_\_ according to the custom of the country, and in all matters subject to the guidance of the Superintendent of the Shan States; you shall recognise the rights of the people and continue them in the same, and on no account shall you oppress them or suffer them in any way to be oppressed.

(4) You shall maintain order within the territory of \_\_\_\_\_ and keep open the trade routes within that territory. Should traders or caravans be attacked within the boundaries of the said territory, you shall pay such compensation as the Superintendent of the Shan States may fix.

(7) If the Government wishes at any time to make a railway through the territory of \_\_\_\_\_, you shall provide land for the purpose free of cost, except that of the compensation adjudged to the actual occupiers of occupied land, and shall help the Government as much as possible.\*

(8) Opium, spirits, or fermented liquor, and other articles which are liable to duties of customs or excise when imported by sea into Lower Burma, or when produced in any part of Upper Burma to which the Regulations of the Governor-General in Council apply, shall not be brought from \_\_\_\_\_ into Lower Burma or into any such part as aforesaid of Upper Burma, except in accordance with rules made by the Government and on payment of such duties as may be prescribed in those rules.

.....  
\* The following addition has since been made to this clause: "The Government may without further notice resume all jurisdiction over and in respect of all lands used or required for railway purposes."

## CEYLON

### Ceylon (State Council) Order in Council, 1931<sup>1</sup>

7. The Council shall consist of the following persons:

- (a) The three persons for the time being lawfully exercising the functions of the respective offices of Chief Secretary, Legal Secretary, and Financial Secretary. Such persons shall be styled Officers of State and shall be to all intents and purposes members of the Council having all the rights and privileges of membership save that they shall not vote upon any question before the Council. . .

<sup>1</sup> Text from *British Parliamentary Papers*, Vol. XXIII, 1930-1931; *Accounts and Papers*, Vol. VI (Cmd. 3862, 1931), pp. 3-36.

For the earlier status of Ceylon reference may be made to the Agreement relating to the Deposition of the King of Kandy and the Assumption by the British Government of the Sovereignty of the Whole Island of Ceylon, 2 Mar. 1815 in *India, Foreign Department. A Collection of Treaties, Engagements and Sanads*, edited by C. ARTHURSON, 4th edition, Vol. X, pp. 289-292, and the Proclamation relating to the Emancipation of the People of Ceylon from the Oppression of their Chiefs, 21 Nov. 1818, *ibid.*, pp. 292-305.

- (b) Fifty persons who shall be elected in accordance with the law for the time being in force relating to the election of members of the Council. Such persons are herein referred to as elected members.
- (c) Not more than eight persons who shall be appointed in the manner hereinafter provided and are herein referred to as nominated members.

32. (1) Subject to the provisions of this Order, the State Council shall be charged with the administration of the subjects and functions of Government specified in the seven groups given in the First Schedule to this Order or in any amendment of that Schedule or which shall be deemed to be included in any of those groups in accordance with this article.

(2) The Council may, by resolution, amend the First Schedule and may declare that any subjects or functions not expressly mentioned in that Schedule shall be deemed to be included in any of the groups specified therein, provided that no subject or function included in the Second Schedule to this Order shall be included in the First Schedule, and provided, further, that the division into seven groups of such subjects and functions as may be included in the First Schedule shall be preserved: but no such resolution or declaration shall have effect until it has been approved by the Governor.

33. (1) Each of the Officers of State shall, subject to the provisions of this Order, and to the directions of the Governor, have charge of the subjects and shall exercise the functions allotted to him in the Second Schedule to this Order or in any amendment of that Schedule or which shall be deemed to be included in the group allotted to him in accordance with this article.

.....  
 35. (2) The member elected by the Committee to be the Chairman thereof shall be appointed by the Governor to be the Minister for that group of subjects and functions which the Committee of which he is the Chairman was elected to administer; provided that the Governor may, in his discretion, decline to appoint as a Minister any member of a Committee so elected as aforesaid, and, in such case, the election of such member as the Chairman of the Committee shall be void and the Committee shall elect another member to be the Chairman thereof.

#### *Board of Ministers.*

50. (1) There shall be a Board of Ministers which shall be composed of the Officers of State and the Ministers.

(2) The Officers of State shall not be entitled to vote upon any question submitted to the Board, but shall have the rights and privileges of membership of the Board in all other respects.

(3) The Chief Secretary shall be the Chairman of the Board and there shall be a Vice-Chairman who shall be elected by the Board from among the Ministers.

.....

56. (1) It shall be the duty of the Board of Ministers to prepare, in consultation with the Financial Secretary, the Annual Estimates of Revenue and Expenditure for the Island and all Supplementary Estimates of Expenditure.

.....

#### FIRST SCHEDULE

##### 32. I. Home Affairs.

Police.

Prisons.

Excise and Local Option.

Functions of the Government Analyst.

Religious Associations and Temporalities.

Subjects of internal administration not otherwise allotted.



- II. Agriculture and Lands.
  - Lands.
  - Forests.
  - Irrigation.
  - Agriculture.
  - Veterinary Services.
  - Surveys and Meteorology.
  - Co-operative Societies.
- III. Local Administration.
  - Local Government.
  - Mines and Salt.
  - Fisheries.
  - Acquisition of land for public purposes.
- IV. Health.
  - Medical Services.
  - Sanitary Services.
  - Housing.
- V. Labour, Industry, and Commerce.
  - Labour.
  - Industrial Welfare.
  - Commerce.
  - Functions of the Registrar-General.
  - Poor Relief.
- VI. Education.
  - Education.
  - Museums.
  - Archaeology.
- VII. Communications and Works.
  - Public Works.
  - Railways.
  - Electrical Undertakings.
  - Posts and Telegraphs.
  - Ports and Harbours.

## SECOND SCHEDULE

- 33. I. Chief Secretary.
  - External Affairs.
  - Defence.
  - The Public Services.
- II. Legal Secretary.
  - The Administration of Justice.
  - Drafting of Legislation.
  - Legal Advice to Government.
  - Criminal prosecutions and civil proceedings on behalf of the Crown.
  - Elections to the State Council.
  - Functions of the Public Trustee.
- III. Financial Secretary.
  - Finance.
  - Supply.
  - Stores and Printing.
  - Establishments.
  - Customs.
  - Estate Duty and Stamps.
  - Valuations on behalf of Government.

Letters Patent Constituting the Office of Governor and  
Commander-in-Chief of the Island of Ceylon and its Dependencies<sup>1</sup>

22 April 1931

VI. *Substantially identical with Cyprus, Letters Patent, paragraph 16, p. 43.*

Royal Instructions to the Governor

22 April 1931<sup>2</sup>

I. In the exercise of the powers conferred upon him by the Ceylon (State Council) Order in Council, 1931, the Governor shall have regard to Our Desire to promote by that Order the devolution upon the inhabitants of Ceylon of responsibility for the management of the Internal Affairs of the Island.

In all matters in which powers and functions are by that Order assigned either to the State Council, or to the Board of Ministers, or to Executive Committees, the Governor, in the exercise of that authority which is reserved to him in relation to those matters, shall give the most favourable consideration to the views expressed and to the advice tendered to him by the body in which those powers and functions reside. In all such matters he shall exercise his authority according to his own deliberate judgment, but in such manner that it shall be supervisory rather than executive, and he will not act contrary to the views or to the advice aforesaid unless he shall consider that the principles of Our said Order, or his own responsibility thereunder, shall so require.

IV. (1) Except in accordance with the provisions of the second sub-clause of this clause, the Governor shall not assent in Our name to any bill falling within any of the following classes:

2. Any bill whereby any grant of land or money, or other donation or gratuity, may be made to himself;
4. Any bill affecting the currency of the Island, or relating to the issue of Bank Notes;
5. Any bill establishing any Banking Association, or amending or altering the constitution, powers, or privileges of any Banking Association;
6. Any bill whereby in the opinion of the Governor the financial stability of the Island may be endangered;
7. Any bill imposing differential duties;
8. Any bill the provisions of which shall appear inconsistent with obligations imposed upon Us by Treaty;
11. Any bill of any extraordinary nature and importance whereby Our prerogative, or the rights and property of Our subjects not residing in the Island, or the trade and shipping of any part of Our dominions, may be prejudiced;
12. Any bill relating to or affecting trade outside the Island, or docks, harbours, shipping, or any lands, buildings, or other matters of naval, military, or aerial interest or of Imperial concern;
13. Any bill whereby persons of any particular community or religion are made liable to any disabilities or restrictions to which persons of other communities or religions are not also subjected or made liable, or are granted advantages not extended to persons of other communities or religions;

<sup>1</sup> Text from *British Parliamentary Papers*, Vol. XXIII, 1930-1931; *Accounts and Papers*, Vol. VI (Cmd. 3862, 1931), pp. 89-93.

<sup>2</sup> *Ibid.*, pp. 95-102.

14. Any bill diminishing or prejudicing any of the rights or privileges to which at the date of these Our Instructions, persons emigrating, or who have emigrated, to the Island from India may be entitled by reason of such emigration;
15. Any bill the principle of which has evoked serious opposition by any racial, religious, or other minority, and which in the opinion of the Governor is likely to involve oppression or unfairness to any such minority.

(2) The Governor may assent in Our name to any bill falling within any of the classes described in the preceding sub-clause of this clause in any of the following cases:

- (a) If he shall have previously obtained Our instructions upon such bill through one of Our Principal Secretaries of State;
- (b) If such bill shall contain a clause suspending the operation thereof until the signification in the Island of Our pleasure thereupon;
- (c) If, save in the case of a bill which is repugnant to the law of England or inconsistent with any obligations imposed upon Us by Treaty, he shall have satisfied himself that an urgent necessity exists requiring that such bill shall be brought into immediate operation, provided that he shall transmit to Us, by the earliest opportunity, any bill to which he shall have so assented, together with a statement of his reasons for assenting thereto.

XIII. The Governor shall punctually transmit to Us, from year to year, through one of Our Principal Secretaries of State, the Annual Book of Returns for the Island, commonly called the "Blue Book," relating to the Revenue and Expenditure, Defence, Public Works, Legislation, Civil Establishments, Pensions, Population, Schools, Course of Exchange, Imports and Exports, Agricultural Produce, Manufactures, and other matters in the said Blue Book more particularly specified, with reference to the state and condition of the Island.

### Statement Made by the Secretary of State for the Colonies in the British House of Commons

*26 May 1943*<sup>1</sup>

In 1941 the following assurance was given to the Board of Ministers in Ceylon:

His Majesty's Government have under further consideration the question of constitutional reform in Ceylon. The urgency and importance of the reform of the Constitution are fully recognised by His Majesty's Government, but before making decisions upon the present proposals for reform, concerning which there has been so little unanimity, but which are of such importance to the well-being of Ceylon, His Majesty's Government would desire that the position should be further examined and made the subject of further consultation by means of a Commission or Conference. This cannot be arranged under war conditions, but the matter will be taken up with the least possible delay after the war.

After further consideration, His Majesty's Government have decided that it is in the general interest to give greater precision to the foregoing statement with the object of removing any doubts regarding His Majesty's Government's

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<sup>1</sup> *Parliamentary Debates*, House of Commons Official Report, Vol. 389, No. 70, cols. 1555-1557.

intentions. Accordingly, His Majesty's Government have asked the Governor to convey to the Board of Ministers the following message:

1. The post-war re-examination of the reform of the Ceylon Constitution, to which His Majesty's Government stands pledged, will be directed towards the grant to Ceylon by Order of His Majesty in Council, of full responsible Government under the Crown in all matters of internal civil administration.

2. His Majesty's Government will retain control of the provision, construction, maintenance, security, staffing, manning and use of such defences, equipment, establishments and communications as His Majesty's Government may deem necessary for the Naval, Military and Air security of the Commonwealth, including that of the Island, the cost thereof being shared between the two Governments in agreed proportions.

3. Ceylon's relations with foreign countries and with other parts of the British Commonwealth of Nations will be subject to the control and direction of His Majesty's Government.

4. The Governor will be vested with such powers as will enable him, if necessary, to enact any direction of His Majesty's Government in regard to matters within the scope of paragraphs 2 and 3 of this Declaration; and his assent to local measures upon these matters will be subject to reference to His Majesty's Government.

5. The present classes of reserved bills in the Royal Instructions will be largely reduced under a new Constitution. Apart from measures affecting Defence and External Relations it is intended that these shall be restricted to classes of bills which:

(a) Relate to the Royal Prerogative, the rights and property of His Majesty's subjects not residing in the Island, and the trade and shipping of any part of the Commonwealth;

(b) Have evoked serious opposition by any racial or religious community and which in the Governor's opinion are likely to involve oppression or unfairness to any community;

(c) Relate to currency.

6. The limitations contained in the preceding paragraph will not be deemed to prevent the Governor from assenting in the King's name to any measure relating to, and conforming with, any trade agreements concluded with the approval of His Majesty's Government by Ceylon with other parts of the Commonwealth. It is the desire of His Majesty's Government that the Island's commercial relations should be settled by the conclusion of agreements, and His Majesty's Government will be pleased to assist in any negotiations with this object.

7. The framing of a Constitution in accordance with the terms of this Declaration will require such examination of detail and such precision of definition as cannot be brought to bear so long as the whole of the energies of the service and other Departments of His Majesty's Government must remain focussed on the successful prosecution of the war. His Majesty's Government will, however, once victory is achieved, proceed to examine by suitable Commission or Conference such detailed proposals as the Ministers may in the meantime have been able to formulate in the way of a complete constitutional scheme, subject to the clear understanding that acceptance by His Majesty's Government of any proposals will depend:

First, upon His Majesty's Government being satisfied that they are in full compliance with the preceding portions of this Statement; and

Secondly, upon their subsequent approval by three-quarters of all members of the State Council of Ceylon, excluding the officers of State and the Speaker or other presiding officer.

8. In their consideration of this problem His Majesty's Government have very fully appreciated and valued the contribution which Ceylon has made and is making to the war effort of the British Commonwealth and the United Nations, and the co-operation which, under the leadership of the Board of Ministers and the State Council, has made this contribution effective.

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## CHINA

### Provisional Constitution Adopted at the Fourth General Session of the National People's Convention<sup>1</sup>

12 May 1931

#### PREAMBLE

The National Government, in order to reconstruct the Republic of China on the basis of the Three Principles of the People and the Constitution of Five Powers, which forms the underlying principle of the revolution, having now brought the revolution from the military to the political tutelage period, deems it necessary to promulgate a Yueh Fa (Provisional Constitution) for general observance, so that the realisation of constitutional Government may be accelerated and political power restored to a popularly-elected Government; and further, in pursuance of the last will of our late Leader, has called at the national capital the Kuo-Min-Hui-I (National People's Convention).

#### CHAPTER II. RIGHTS AND DUTIES OF THE PEOPLE

6. All citizens (Kuo-Min) of the Republic of China shall be equal before the law, irrespective of sex, race, religion or caste.

12. All persons shall be free to choose and change their residence; such freedom shall not be denied or restricted except in accordance with law.

14. All persons shall have the freedom of assembly and formation of associations: such freedom shall not be denied or restricted except in accordance with law.

15. All persons shall have the liberty of speech and publication: such liberty shall not be denied or restricted except in accordance with law.

16. Except in accordance with law, no private property shall be sealed or confiscated.

17. The exercise of the right of ownership by any private owner of property, in so far as it does not conflict with the public interest, shall be protected by law.

18. Where public interest necessitates, the property of the people may be expropriated in accordance with law.

19. All persons shall have the right to inherit property in accordance with law.

20. All persons shall have the right of petition (to the Government).

21. All persons shall have the right to institute judicial proceedings at the courts of justice, in accordance with law.

22. All persons shall have the right to submit petitions, and institute administrative proceedings (at the Administrative Court) in accordance with law (for the redress of wrongs done by Government administrative organs).

23. All persons shall have the right to compete in civil service examinations in accordance with law.

24. All persons may, according to law, hold public posts.

25. All persons shall have the duty of paying taxes in accordance with law.

26. All persons shall have the duty of undertaking military service and of performing compulsory labour (for the State) in accordance with law.

27. All persons shall have the duty to obey the measures taken by Government Organs in the performance of their duties according to law.

<sup>1</sup> English translation from H. F. MACNAIR: *China in Revolution*, pp. 228-236.

## CHAPTER IV. PEOPLE'S LIVELIHOOD

33. In order to develop the people's economic welfare, the State (Kuo-Chia) shall afford every encouragement and protection to the productive enterprises of the people.

34. In order to develop rural economy, to improve the living conditions of farmers as well as to promote the well-being of peasants, the State shall take active steps for the carrying out of the following measures:

(1) Reclamation of all waste land in the country and development of farm irrigation;

(2) Establishment of agricultural banks and encouragement of co-operative enterprises in the rural communities;

(3) Enforcement of the (public) granary system for the prevention of famine and other calamities and replenishment of the people's food supplies;

(4) Development of agricultural education with special emphasis on scientific experiments, extensive development of agricultural enterprises and increase of agricultural produce;

(5) Encouragement of road-building in the rural villages to facilitate the transportation of agricultural products.

36. The State shall undertake and inaugurate State shipping enterprises; and shall also encourage and protect private shipping enterprises.

37. All persons shall be free to choose their profession or occupation. But when it is contrary to the public interest, the State may, by law, restrict or deny such freedom.

38. All persons shall be free to make contracts: such freedom, in so far as it is not in conflict with the public interest or with good morals, shall be protected by law.

39. In order to better their economic well-being as well as to promote closer co-operation between capital and labour, the people may form occupational organisations in accordance with law.

40. Both capital and labour shall develop productive enterprises in accordance with the principle of co-operation and mutual benefit.

41. In order to improve the living conditions of labour, the State shall put into effect various laws for the protection of labour and shall afford special protection to child and woman workers in respect to their age and health.

42. In order to safeguard as well as relieve peasants and workers who shall be unable to work on account of accidents, sickness, disability or old age, the State shall put into effect a labour insurance system.

43. In order to promote the economic interests of the people, the State shall encourage and promote various co-operative enterprises.

44. The State may control or regulate the production or sale as well as the market price of daily necessities of the people.

45. Laws shall be enacted for the prohibition of usury, and exorbitant rents for the use of immovable properties.

46. The State shall give appropriate relief to those members of the national forces who are disabled in the course of active service.

## CHAPTER V. EDUCATION OF THE CITIZENS

47. The Three Principles of the People shall be the basic principles of education in the Republic of China.

48. Both sexes shall have equal opportunity for education.

49. All public and private educational institutions in the country shall be

subject to the supervision of the State, and shall also be responsible for the carrying out of the educational policies adopted by the State.

50. All children of school age shall receive free education. Details shall be separately provided by law.

51. Those who have not had free education (in their youth) shall receive special adult education. Details shall be separately provided by law.

52. The Central and local Governments shall provide adequate funds for necessary educational expenses, and shall also safeguard the security of funds which are, by law, specially set apart (for educational purposes).

53. The State shall give encouragement or grants to private educational institutions which have achieved particularly satisfactory results.

54. Encouragement and grants shall be given for the education of overseas Chinese.

55. The State shall encourage and safeguard members of the administrative or teaching staffs of schools who hold satisfactory records and have been long in service.

56. All public and private educational institutions in the country shall establish scholarships and prizes for the encouragement of deserving but needy students.

57. The State shall encourage and protect research and discoveries in science or the arts.

58. The State shall protect and preserve historic remains and ancient relics which have historical, cultural or artistic value.

## The Government Draft of the Proposed Constitution<sup>1</sup>

*Released 30 April 1937*

By virtue of the mandate received from the whole body of citizens and in accordance with the bequeathed teachings of Dr. Sun, Founder of the Republic of China, the People's Congress of the Republic of China hereby ordains and enacts this Constitution and causes it to be promulgated throughout the land for faithful and perpetual observance by all.

### CHAPTER I. GENERAL PROVISIONS

1. The Republic of China is a SAN MIN CHU I Republic.
2. The sovereignty of the Republic of China is vested in the whole body of its citizens.
5. All races of the Republic of China are component parts of the Chinese Nation and shall be equal.

### CHAPTER II. RIGHTS AND DUTIES OF THE CITIZENS

8. All citizens of the Republic of China shall be equal before the law.
9. Every citizen shall enjoy the liberty of the person.  
.....
12. Every citizen shall have the freedom to change his residence; such freedom shall not be restricted except in accordance with law.
13. Every citizen shall have the freedom of speech, writing and publication; such freedom shall not be restricted except in accordance with law.

<sup>1</sup> English translation from *T'ien Hsia Monthly*, Vol. X, No. 3, May 1940, pp. 493-506.

15. Every citizen shall have the freedom of religious belief ; such freedom shall not be restricted except in accordance with law.

16. Every citizen shall have the freedom of assembly and of forming associations ; such freedom shall not be restricted except, in accordance with law.

17. No private property shall be requisitioned, expropriated, sealed or confiscated except in accordance with law.

18. Every citizen shall have the right to present petitions, lodge complaints and institute legal proceedings in accordance with law.

20. Every citizen shall have the right to compete, in accordance with law, in state examinations.

21. Every citizen shall, in accordance with law, be amenable to the duty of paying taxes.

23. Every citizen shall, in accordance with law, be amenable to the duty of rendering public service.

24. All other liberties and rights of the citizens which are not detrimental to public peace and order or public welfare shall be guaranteed by the Constitution.

25. Only laws imperative for safeguarding national security, averting a national crisis, maintaining public peace and order or promoting public interest may restrict the citizens' liberties and rights.

## CHAPTER VI. NATIONAL ECONOMIC LIFE

116. The economic system of the Republic of China shall be based upon the Min Shêng Chu I (Principle of Livelihood) and shall aim at national economic sufficiency and equality.

117. The land within the territorial limits of the Republic of China belongs to the people as a whole. Any part thereof the ownership of which has been lawfully acquired by an individual or individuals shall be protected by, and subject to, the restrictions of law.

The State may, in accordance with law, tax or expropriate private land on the basis of the value declared by the owner or assessed by the Government.

Every landowner is amenable to the duty of utilising his land to the fullest extent.

118. All subterranean minerals and natural forces which are economically utilisable for public benefit, belong to the State and shall not be affected by private ownership of the land.

119. The unearned increment shall be taxed by means of a land-value-increment tax and devoted to public benefit.

120. In readjusting the distribution of land, the State shall be guided by the principle of aiding and protecting the land-owning farmers and the land-utilising owners.

121. The State may, in accordance with law, regulate private wealth and enterprises when such wealth and enterprises are considered detrimental to the balanced development of national economic life.

122. The State shall encourage, guide and protect the citizens' productive enterprises and the nation's foreign trade.

123. All public utilities and enterprises of a monopolistic nature shall be operated by the State ; except in case of necessity when the State may specially permit private operation.

The private enterprises mentioned in the preceding paragraph may, in case of emergency for national defence, be temporarily managed by the State. The State may also, in accordance with law, take them over for permanent operation upon payment of due compensation.

124. In order to improve the workers' living conditions, increase their productive ability and relieve unemployment, the State shall enforce labour protective policies.



Women and children shall be afforded special protection in accordance with their age and physical condition.

125. Labour and capital shall, in accordance with the principles of mutual help and co-operation, develop together productive enterprises.

126. In order to promote agricultural development and the welfare of the farming population, the State shall improve rural economic and living conditions and increase farming efficiency by employment of scientific farming.

The State may regulate the production and distribution of agricultural products, in kind and quantity.

127. The State shall accord due relief or compensation to those who suffer disability or loss of life in the performance of military or public services.

128. The State shall give suitable relief to the aged, feeble, or disabled who are incapable of earning a living.

129. While the following powers appertain to the Legislative Yuan in the case of the Central Government, they may be exercised by the legally designated organ if, in accordance with law, such matters may be effected independently by a Province, district or municipality.

(1) To impose or alter the rate of taxes and levies, fines, penalties, or other imposts of a compulsory nature.

(2) To raise public loans, dispose of public property or conclude contracts which increase the burden of the public treasury.

(3) To establish or cancel public enterprises, monopolies, franchises or any other profit-making enterprises.

(4) To grant or cancel public enterprises, monopolies, franchises or any other special privileges.

Unless specially authorised by law, the Government of a Province, district or municipality shall not raise foreign loans or directly utilise foreign capital.

130. Within the territorial limits of the Republic of China all goods shall be permitted to circulate freely. They shall not be seized or detained except in accordance with law.

Customs duty is a Central Government revenue. It shall be collected only once when the goods enter or leave the country.

The various grades of government shall not collect any dues on goods in transit within the country, with the exception of tolls levied for the purpose of improving the waterways and roads, on vessels and vehicles making use of them.

The right to impose taxes and levies on goods belongs to the Central Government and shall not be exercised except in accordance with law.

## CHAPTER VII. EDUCATION

131. The educational aim of the Republic of China shall be to develop a national spirit, to cultivate a national morality, to train the people for self government and to increase their ability to earn a livelihood, and thereby to build up a sound and healthy body of citizens.

132. Every citizen of the Republic of China shall have an equal opportunity to receive education.

133. All public and private educational institutions in the country shall be subject to State supervision and amenable to the duty of carrying out the educational policies formulated by the State.

134. Children between six and twelve years of age are of school age and shall receive elementary education free of tuition. Detailed provisions shall be provided by law.

135. All persons over school age who have not received an elementary education shall receive supplementary education free of tuition. Detailed provisions shall be provided by law.

136. In establishing universities and technical schools, the State shall give special consideration to the needs of the respective localities so as to afford the people thereof an equal opportunity to receive higher education, thereby hastening a balanced national cultural development.

137. Educational appropriations shall constitute no less than fifteen per cent. of the total amount of the budget of the Central Government and no less than thirty per cent. of the total amount of the Provincial, district and municipal budgets respectively. Educational endowment funds independently set aside in accordance with law shall be safeguarded.

Educational expenditures in needy Provinces shall be subsidised by the Central Treasury.

138. The State shall encourage and subsidise the following enterprises or citizens:

- (1) Private educational institutions with a high record of achievement.
- (2) Education for Chinese citizens residing abroad.
- (3) Discoverers or inventors in academic or technical fields.
- (4) Teachers or administrative officers of educational institutions having good records and long service.
- (5) Students of high records and good character who are unable to pursue further studies.

## Constitution of the Republic of China<sup>1</sup>

*10 October 1923*

### CHAPTER IV. CITIZENS

21. A citizen of the Republic of China shall have the duty to receive elementary education in accordance with law.

### CHAPTER V. PUBLIC POWERS

22. Of the public powers of the Republic of China, those relating to the national affairs shall be exercised in accordance with the provisions of this Constitution; and those relating to local affairs, in accordance with the provisions of this Constitution and the law of self government of the Province.

23. The following matters shall be legislated upon and executed by the Republic:

- (1) Foreign relations.
- (2) National defence.
- (3) Nationality law.
- (4) Criminal, civil and commercial laws.
- (5) Prison system.
- (6) Weights and measures.
- (7) Currency and national banks.
- (8) Customs duty, salt tax, stamp tax, tobacco and wine taxes, and other consumption taxes and other taxes the rates of which shall be uniform throughout the country.

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<sup>1</sup> Text from the translation published by the Commission on Extraterritoriality, Peking, as reproduced in A. M. KOTENEV: *Shanghai: Its Municipality and the Chinese*, 1927, pp. 359-372.

- (9) Posts, telegraphs and aviation.
- (10) National railways and roads.
- (11) National property.
- (12) National debts.
- (13) Monopolies and licences.
- (14) Examination, appointment, investigation and protection of the civil and military officials of the country.
- (15) Other matters which, according to the provisions of this Constitution, relate to the Republic.

24. The following matters shall be legislated upon by the Republic and shall be executed by the Republic or, under its order, by the local areas :

- (1) Agriculture, industry, mining and forestry.
- (2) The educational system.
- (3) The banking and exchange system.
- (4) Navigation and coast fisheries.
- (5) Irrigation and conservancy concerned with and waterways extending to two or more Provinces.
- (6) General regulations relating to municipalities.
- (7) Eminent domain.
- (8) The national census and statistics.
- (9) Immigration, emigration, reclamation and colonisation.
- (10) The police system.
- (11) Public sanitation.
- (12) Relief work and administration of unemployed persons.
- (13) Preservation of such ancient books, objects and remains as are of historic, cultural or scientific interest.

A Province may enact local laws relating to the above sub-divisions ; provided that they shall not be contrary to the National laws. A Province may, pending legislation by the Republic, legislate upon the matters specified in sub-divisions (1), (4), (10), (12) and (13).

25. The following matters shall be legislated upon by a Province and shall be executed by such Province or, under its order, by a district (Hsien) :

- (1) Provincial education, industry and communications.
- (2) Management and disposal of Provincial properties.
- (3) Municipal affairs of the Province.
- (4) Provincial irrigation, conservancy and engineering works.
- (5) The land tax, title-deed tax and other Provincial taxes.
- (6) Provincial debts.
- (7) Provincial banks.
- (8) Provincial police and matters relating to public safety.
- (9) Provincial philanthropic work and work for public benefit.
- (10) Self government of the lower grade.
- (11) Other matters assigned by National laws.

Where any of the matters above referred to concerns two or more Provinces, it may be undertaken by them jointly, unless it is otherwise provided by law. When the funds are insufficient, the deficit may, with the approval of Parliament, be made good from the National Treasury.

26. When any matter not specified in articles 23, 24 and 25 arises, it shall be a matter of the Republic if by its nature it concerns the Republic, and of a Province if by its nature it concern the Province. Any controversy arising in this connection shall be decided by the highest court of justice.

27. The Republic may, in order to obviate the following evils, or when necessary for the promotion of public welfare, restrict by law any Provincial tax and its method of collection :

- (1) Impairment of the national revenue or commerce.
- (2) Double taxes.
- (3) Excessive fees, or fees detrimental to communications, charged for the use of public roads or other means of communication.
- (4) Taxes imposed by the Province or other local areas, detrimental to goods imported therein, for the purpose of protecting their local products.
- (5) Duties imposed by the Provinces or other local areas for the transit of goods.

28. A Provincial law conflicting with a National law shall be void.

When doubt arises as to whether a Provincial law conflicts with a National law, interpretation shall lie with the highest court of justice.

The foregoing provision in the matter of interpretation shall apply when a Provincial self government law conflicts with a National law.

## Mongol Leagues, Tribes and Banners

### Mongol League, Tribe and Banner Organic Law<sup>1</sup>

12 October 1931

3. Mongolians residing within the territory of the various Mongol leagues, tribes and banners shall have equal rights and obligations with the people of the said Mongol leagues, tribes and banners.

## Shanghai

### Land Regulations<sup>2</sup>

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<sup>1</sup> English translation from *British and Foreign State Papers*, Vol. 134, 1931, pp. 1215-1219; for Chinese text, see *National Government Gazette*, No. 897, 13 Oct. 1931.

<sup>2</sup> The Shanghai Land Regulations are in the nature of a constitutional instrument, but in view of their special character and the fact that they were in many respects obsolete prior to the occupation of Shanghai by the Japanese the text has been omitted. It is printed in the *Report of the Hon. Mr. Justice Feetham, C.M.G. to the Shanghai Municipal Council*, Vol. I, pp. 68-83 and in A. M. KOTENEV: *Shanghai: Its Mixed Court and Councils*, 1925, pp. 557-575; the latter volume also contains the text of the by-laws annexed to the Regulations. The Treaties for the relinquishment of extraterritorial rights in China and the Regulation of related matters of 11 January 1943 between China and Great Britain and China and the United States contain articles stating that His Majesty the King of Great Britain and the Government of the United States of America respectively consider that the International Settlements at Shanghai and Amoy should revert to the administration and control of the Government of the Republic of China and pledge their co-operation for the reaching of any necessary agreements with the other Governments concerned (article 4 of the Treaty with Great Britain and article 3 of the Treaty with the United States); for the text, see *The American Journal of International Law*, Vol. 37, No. 2, Apr. 1943, Official Documents, pp. 57-71.

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## FORMOSA

*A brief account of the constitutional arrangements of Formosa is contained in Government and Nationalism in South East Asia, published in the Institute of Pacific Relations, Inquiry Series, pp. 113-117.*

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## FRENCH ESTABLISHMENTS IN INDIA

*An account of the constitutional arrangements of the French Establishments in India, is contained in Arthur GIRAULT, Principes de colonisation et de législation coloniale, 5th edition, Vol. II, 1929, pp. 103-106.*

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## GOA

*See Portuguese Colonies, pp. 686-693.*

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## HONG KONG

Letters Patent Constituting the Office of Governor and  
Commander-in-Chief<sup>1</sup>

14 February 1917

XIII. Substantially identical with Cyprus Letters Patent, paragraph 16, p. 43.

Royal Instructions to the Governor and Commander-in-Chief

17 February 1917

26. Substantially identical with Bahamas Royal Instructions, paragraph 21, p. 289, but omitting clause 3.

27. Substantially identical with British Guiana Royal Instructions, paragraph 14, p. 292.

31. Substantially identical with Bahamas Royal Instructions, paragraph 27, p. 290.

35. Substantially identical with Bahamas Royal Instructions, paragraph 30, p. 290.

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<sup>1</sup> Text from Statutory Rules and Orders, 1917, p. 1137.

## INDIA

### Queen Victoria's Proclamation<sup>1</sup>

1 November 1858

.....

We hold Ourselves bound to the Natives of Our Indian Territories by the same obligations of duty which bind Us to all Our other Subjects; and those Obligations, by the Blessing of Almighty God, We shall faithfully and conscientiously fulfil.

.....

Firmly relying Ourselves on the truth of Christianity, and acknowledging with gratitude the solace of Religion, We disclaim alike the Right and the desire to impose our Convictions on any of Our Subjects. We declare it to be Our Royal Will and Pleasure that none be in any wise favoured, none molested or disquieted by reason of their Religious Faith or Observances; but that all shall alike enjoy the equal and impartial protection of the Law: and We do strictly charge and enjoin all those who may be in authority under Us, that they abstain from all interference with the Religious Belief or Worship of any of Our Subjects, on pain of Our highest Displeasure.

And it is Our Further Will that, so far as may be, Our Subjects, of whatever Race or Creed, be freely and impartially admitted to Offices in Our Service, the Duties of which they may be qualified, by their education, ability, and integrity, duly to discharge.

We know, and respect, the feelings of attachment with which the Natives of India regard the Lands inherited by them from their Ancestors; and We desire to protect them in all Rights connected therewith, subject to the equitable demands of the State; and We will that generally, in framing and administering the Law, due regard be paid to the ancient Rights, Usages, and Customs of India.

### Government of India Act 1935<sup>2</sup>

#### PART II. THE FEDERATION OF INDIA

##### *Chapter I. Establishment of Federation and Accession of Indian States*

6. (1) A State shall be deemed to have acceded to the Federation if His Majesty has signified his acceptance of an instrument of accession executed by the Ruler thereof, whereby the Ruler for himself, his heirs and successors:

(a) Declares that he accedes to the Federation as established under this Act, with the intent that His Majesty the King, the Governor-General of India, the

<sup>1</sup> Text from P. MUKHERJI: *Indian Constitutional Documents, 1600-1918*, Vol. I, Calcutta and Simla, 1918, pp. 432-433.

<sup>2</sup> Text from *Law Reports — Statutes*, Vol. I, 1936, pp. 1-332. The standard commentary on the Act is RAMASWAMY: *The Law of the Indian Constitution*, 1938.

The following are the principal official documents on Indian constitutional reform: *Report on Indian Constitutional Reforms*, Cmd. 9109 of 1918; *Report from the Joint Select Committee on the Government of India Bill*, Vol. I, *Report and Proceedings*, Vol. II, *Evidence*, Vol. III,

Federal Legislature, the Federal Court and any other Federal authority established for the purposes of the Federation shall, by virtue of his instrument of accession, but subject always to the terms thereof, and for the purpose only of the Federation, exercise in relation to his State such functions as may be vested in them by or under this Act; and

(b) Assumes the obligation of ensuring that due effect is given within his State to the provisions of this Act so far as they are applicable therein by virtue of his instrument of accession:

.....

(2) An instrument of accession shall specify the matters which the Ruler accepts as matters with respect to which the Federal Legislature may make laws for his State, and the limitations, if any, to which the power of the Federal Legislature to make laws for his State, and the exercise of the executive authority of the Federation in his State, are respectively to be subject.

## *Chapter II. The Federal Executive*

9. (1) There shall be a Council of Ministers, not exceeding ten in number, to aid and advise the Governor-General in the exercise of his functions, except in so far as he is by or under this Act required to exercise his functions or any of them in his discretion:

Provided that nothing in this sub-section shall be construed as preventing the Governor-General from exercising his individual judgment in any case where by or under this Act he is required so to do.

10. (2) A Minister who for any period of 6 consecutive months is not a member of either Chamber of the Federal Legislature shall at the expiration of that period cease to be a Minister.

11. (1) The functions of the Governor-General with respect to defence and ecclesiastical affairs and with respect to external affairs, except the relations between the Federation and any part of His Majesty's dominions, shall be exercised by him in his discretion, and his functions in or in relation to the tribal areas shall be similarly exercised.

12. *Special responsibilities of Governor-General.* (1) In the exercise of his functions the Governor-General shall have the following special responsibilities, that is to say:

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*Appendices; British Parliamentary Papers, Vol. IV, 1919-1920, Reports from Committees, Vol. II; Report of the Indian States Committee, 1928-1929, Cmd. 3302 of 1929; Report of the Indian Central Committee, 1928-1929, Cmd. 3451 of 1929; Report of the Indian Statutory Commission, 1930, 2 vols. Cmd. 3568 of 1930; Memoranda submitted to the Indian Statutory Commission, 1930, 11 vols.; INDIAN ROUND TABLE CONFERENCE: Proceedings, 12 Nov. 1930-19 Jan. 1931, Cmd. 3778 of 1931; INDIAN ROUND TABLE CONFERENCE, 12 Nov. 1930-19 Jan. 1931; Sub-Committees' Reports, Conference Resolution and Prime Minister's Statement, Cmd. 3772 of 1931; INDIAN ROUND TABLE CONFERENCE, 12 Nov. 1930-19 Jan. 1931: Proceedings of Sub-Committees Part I, Federal Structure, Part II, Sub-Committees II-IX: INDIAN ROUND TABLE CONFERENCE (Second Session), 7 Sept. 1931-1 Dec. 1931: Proceedings, Cmd. 3997 of 1931; INDIAN ROUND TABLE CONFERENCE (Second Session), 7 Sept. 1931-1 Dec. 1931: Proceedings of Federal Structure Committee and Minorities Committee; INDIAN ROUND TABLE CONFERENCE (Third Session), 17 Nov. 1932-24 Dec. 1932: Proceedings, Cmd. 4238 of 1932; Report of the Federal Finance Committee, 28 Mar. 1932, Cmd. 4069 of 1932; Report of the Indian Franchise Committee, 1932, Cmd. 4086 of 1932; Report of the Indian States Enquiry Committee (Financial), 1932, Cmd. 4103 of 1932; Proposals for Indian Constitutional Reform, Cmd. 4268 of 1932; Joint Committee on Indian Constitutional Reforms, Session 1932-1933: Vol. I, Report, Vols. II a, b, c, and d, Minutes of Evidence, Vol. III, Records; British Parliamentary Papers, 1932-33, Vols. V-IX, Reports from Committees, Vols. II-VI; Joint Committee on Indian Constitutional Reform, Session 1933-1934, Vol. I, Part I, Report, Part II, Proceedings, Vol. II, Records; British Parliamentary Papers, Vols. VI, VII and VIII, 1933-1934, Reports from Committees, Vols. II, III and IV.*

- (a) The prevention of any grave menace to the peace or tranquillity of India or any part thereof;
  - (b) The safeguarding of the financial stability and credit of the Federal Government;
  - (c) The safeguarding of the legitimate interests of minorities;
  - (d) The securing to, and to the dependants of, persons who are or have been members of the public services of any rights provided or preserved for them by or under this Act and the safeguarding of their legitimate interests;
  - (e) The securing in the sphere of executive action of the purposes which the provisions of chapter III of part V of this Act are designed to secure in relation to legislation;
  - (f) The prevention of action which would subject goods of United Kingdom or Burmese origin imported into India to discriminatory or penal treatment;
  - (g) The protection of the rights of any Indian State and the rights and dignity of the Ruler thereof; and
  - (h) The securing that the due discharge of his functions with respect to matters with respect to which he is by or under this Act required to act in his discretion, or to exercise his individual judgment, is not prejudiced or impeded by any course of action taken with respect to any other matter.
- (2) If and in so far as any special responsibility of the Governor-General is involved, he shall in the exercise of his functions exercise his individual judgment as to the action to be taken.

### PART III. THE GOVERNORS' PROVINCES

#### *Chapter II. The Provincial Executive*

52. *Special Responsibilities of Governor.* (1) In the exercise of his functions the Governor shall have the following special responsibilities, that is to say:

- (a) The prevention of any grave menace to the peace or tranquillity of the Province or any part thereof;
- (b) The safeguarding of the legitimate interests of minorities;
- (c) The securing to, and to the dependants of, persons who are or have been members of the public services of any rights provided or preserved for them by or under this Act, and the safeguarding of their legitimate interests;
- (d) The securing in the sphere of executive action of the purposes which the provisions of chapter III of part V of this Act are designed to secure in relation to legislation;
- .....
- (f) The protection of the rights of any Indian State and the rights and dignity of the Ruler thereof; and
- (g) The securing of the execution of orders or directions lawfully issued to him under part VI of this Act by the Governor-General in his discretion.

(2) The Governor of the Central Provinces and Berar shall also have the special responsibility of securing that a reasonable share of the revenues of the Province is expended in or for the benefit of Berar, the Governor of any Province which includes an excluded area shall also have the special responsibility of securing that the due discharge of his functions in respect of excluded areas is not prejudiced or impeded by any course of action taken with respect to any other matter, any Governor who is discharging any functions as agent for the Governor-



General shall also have the special responsibility of securing that the due discharge of those functions is not prejudiced or impeded by any course of action taken with respect to any other matter, and the Governor of Sind shall also have the special responsibility of securing the proper administration of the Lloyd Barrage and Canals Scheme.

(3) If and in so far as any special responsibility of the Governor is involved, he shall, in the exercise of his functions, exercise his individual judgment as to the action to be taken.

## PART V. LEGISLATIVE POWERS

### *Chapter I. Distribution of Powers*

99. *Extent of Federal and Provincial laws.* (1) Subject to the provisions of this Act, the Federal Legislature may make laws for the whole or any part of British India or for any part thereof.

(2) Without prejudice to the generality of the powers conferred by the preceding sub-section, no Federal law shall, on the ground that it would have extra-territorial operation, be deemed to be invalid in so far as it applies:

- (a) To British subjects and servants of the Crown in any part of India; or
- (b) To British subjects who are domiciled in any part of India wherever they may be; or
- (c) To, or to persons on, ships or aircraft registered in British India or any Federated State wherever they may be; or
- (d) In the case of a law with respect to a matter accepted in the Instrument of Accession of a Federated State as a matter with respect to which the Federal Legislature may make laws for that State, to subjects of that State wherever they may be; or
- (e) In the case of a law for the regulation or discipline of any naval, military, or air force raised in British India, to members of, and persons attached to, employed with or following, that force, wherever they may be.

100. *Subject matter of Federal and Provincial laws.* (1) Notwithstanding anything in the two next succeeding sub-sections, the Federal Legislature has, and a Provincial Legislature has not, power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule to this Act (hereinafter called the "Federal Legislative List").

(2) Notwithstanding anything in the next succeeding sub-section, the Federal Legislature, and, subject to the preceding sub-section, a Provincial Legislature also, have power to make laws with respect to any of the matters enumerated in List III in the said Schedule (hereinafter called the "Concurrent Legislative List").

(3) Subject to the two preceding sub-sections, the Provincial Legislature has, and the Federal Legislature has not, power to make laws for a Province or any part thereof with respect to any of the matters enumerated in List II in the said Schedule (hereinafter called the "Provincial Legislative List").

(4) The Federal Legislature has power to make laws with respect to matters enumerated in the Provincial Legislative List except for a Province or any part thereof.

101. *Extent of Power to legislate for States.* Nothing in this Act shall be construed as empowering the Federal Legislature to make laws for a Federated State otherwise than in accordance with the Instrument of Accession of that State and any limitations contained therein.

102. *Power of Federal Legislature to legislate if an emergency is proclaimed.*

(1) Notwithstanding anything in the preceding sections of this chapter, the Federal Legislature shall, if the Governor-General has in his discretion declared by

Proclamation (in this Act referred to as a "Proclamation of Emergency") that a grave emergency exists whereby the security of India is threatened, whether by war or internal disturbance, have power to make laws for a Province or any part thereof with respect to any of the matters enumerated in the Provincial Legislative List:

Provided that no bill or amendment for the purposes aforesaid shall be introduced or moved without the previous sanction of the Governor-General in his discretion, and the Governor-General shall not give his sanction unless it appears to him that the provision proposed to be made is a proper provision in view of the nature of the emergency.

(2) Nothing in this section shall restrict the power of a Provincial Legislature to make any law which under this Act it has power to make, but if any provision of a Provincial law is repugnant to any provision of a Federal law which the Federal Legislature has under this section power to make, the Federal law, whether passed before or after the Provincial law, shall prevail, and the Provincial law shall to the extent of the repugnancy, but so long only as the Federal law continues to have effect, be void.

(3) A Proclamation of Emergency:

- (a) May be revoked by a subsequent Proclamation;
- (b) Shall be communicated forthwith to the Secretary of State and shall be laid by him before each House of Parliament; and
- (c) Shall cease to operate at the expiration of six months, unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament.

(4) A law made by the Federal Legislature which that Legislature would not but for the issue of a Proclamation of Emergency have been competent to make shall cease to have effect on the expiration of a period of six months after the Proclamation has ceased to operate, except as respects things done or omitted to be done before the expiration of the said period.

103. *Power of Federal Legislature to legislate for two or more Provinces by consent.* If it appears to the Legislatures of two or more Provinces to be desirable that any of the matters enumerated in the Provincial Legislative List should be regulated in those Provinces by Act of the Federal Legislature, and if resolutions to that effect are passed by all the Chambers of those Provincial Legislatures, it shall be lawful for the Federal Legislature to pass an Act for regulating that matter accordingly, but any Act so passed may, as respects any Province to which it applies, be amended or repealed by an Act of the Legislature of that Province.

104. *Residual powers of legislation.* (1) The Governor-General may by public notification empower either the Federal Legislature or a Provincial Legislature to enact a law with respect to any matter not enumerated in any of the Lists in the Seventh Schedule to this Act, including a law imposing a tax not mentioned in any such list, and the executive authority of the Federation or of the Province, as the case may be, shall extend to the administration of any law so made, unless the Governor-General otherwise directs.

(2) In the discharge of his functions under this section the Governor-General shall act in his discretion.

106. *Provisions as to legislation for giving effect to international agreements.*

(1) The Federal Legislature shall not by reason only of the entry in the Federal Legislative List relating to the implementing of treaties and agreements with other countries have power to make any law for any Province except with the previous consent of the Governor, or for a Federated State except with the previous consent of the Ruler thereof.

(2) So much of any law as is valid only by virtue of any such entry as aforesaid may be repealed by the Federal Legislature and may, on the treaty or agree-

ment in question ceasing to have effect, be repealed as respects any Province or State by a law of that Province or State.

(3) Nothing in this section applies in relation to any law which the Federal Legislature has power to make for a Province or, as the case may be, a Federated State, by virtue of any other entry in the Federal or the Concurrent Legislative List as well as by virtue of the said entry.

107. *Inconsistency between Federal laws and Provincial or State laws.* (1) If any provision of a Provincial law is repugnant to any provision of a Federal law which the Federal Legislature is competent to enact or to any provision of an existing Indian law with respect to one of the matters enumerated in the Concurrent Legislative List, then, subject to the provisions of this section, the Federal law, whether passed before or after the Provincial law, or, as the case may be, the existing Indian law, shall prevail and the Provincial law shall, to the extent of the repugnancy, be void.

(2) Where a Provincial law with respect to one of the matters enumerated in the Concurrent Legislative List contains any provision repugnant to the provisions of an earlier Federal law or an existing Indian law with respect to that matter, then, if the Provincial law, having been reserved for the consideration of the Governor-General or for the signification of His Majesty's pleasure, has received the assent of the Governor-General or of His Majesty, the Provincial law shall in that Province prevail, but nevertheless the Federal Legislature may at any time enact further legislation with respect to the same matter:

Provided that no bill or amendment for making any provision repugnant to any Provincial law, which, having been so reserved, has received the assent of the Governor-General or of His Majesty, shall be introduced or moved in either Chamber of the Federal Legislature without the previous sanction of the Governor-General in his discretion.

(3) If any provision of a law of a Federated State is repugnant to a Federal law which extends to that State, the Federal law, whether passed before or after the law of the State, shall prevail and the law of the State shall, to the extent of the repugnancy, be void.

## *Chapter II. Restrictions on Legislative Powers*

108. *Sanction of Governor-General or Governor required for certain legislative proposals.* (1) Unless the Governor-General in his discretion thinks fit to give his previous sanction, there shall not be introduced into, or moved in, either Chamber of the Federal Legislature, any bill or amendment which:

- (a) Repeals, amends or is repugnant to any provisions of any Act of Parliament extending to British India; or
- (b) Repeals, amends or is repugnant to any Governor-General's or Governor's Act, or any ordinance promulgated in his discretion by the Governor-General or a Governor; or
- (c) Affects matters as respects which the Governor-General is, by or under this Act, required to act in his discretion; or
- .....
- (f) Subjects persons not resident in British India to greater taxation than persons resident in British India or subjects companies not wholly controlled and managed in British India to greater taxation than companies wholly controlled and managed therein; or
- (g) Affects the grant of relief from any Federal tax on income in respect of income taxed or taxable in the United Kingdom.

(2) Unless the Governor-General in his discretion thinks fit to give his previous sanction, there shall not be introduced into, or moved in, a Chamber of a Provincial Legislature any bill or amendment which:

- (a) Repeals, amends, or is repugnant to any provisions of any Act of Parliament extending to British India; or
- (b) Repeals, amends or is repugnant to any Governor-General's Act, or any ordinance promulgated in his discretion by the Governor-General; or
- (c) Affects matters as respects which the Governor-General is by or under this Act, required to act in his discretion; or

and unless the Governor of the Province in his discretion thinks fit to give his previous sanction, there shall not be introduced or moved any bill or amendment which:

- (i) Repeals, amends or is repugnant to any Governor's Act, or any ordinance promulgated in his discretion by the Governor; or

(3) Nothing in this section affects the operation of any other provision in this Act which requires the previous sanction of the Governor-General or of a Governor to the introduction of any bill or the moving of any amendment.

### *Chapter III. Provisions with Respect to Discrimination, etc.*

111. *British subjects domiciled in the United Kingdom.* (1) Subject to the provisions of this chapter, a British subject domiciled in the United Kingdom shall be exempt from the operation of so much of any Federal or Provincial law as:

- (a) Imposes any restriction on the right of entry into British India; or
- (b) Imposes by reference to place of birth, race, descent, language, religion, domicile, residence or duration of residence, any disability, liability, restriction or condition in regard to travel, residence, the acquisition, holding, or disposal of property, the holding of public office, or the carrying on of any occupation, trade, business or profession:

Provided that no person shall by virtue of this sub-section be entitled to exemption from any such restriction, condition, liability or disability as aforesaid if and so long as British subjects domiciled in British India are by or under the law of the United Kingdom subject in the United Kingdom to a like restriction, condition, liability, or disability imposed in regard to the same subject matter by reference to the same principle of distinction.

(2) For the purposes of the preceding sub-section, a provision, whether of the law of British India or of the law of the United Kingdom, empowering any public authority to impose quarantine regulations, or to exclude or deport individuals, wherever domiciled, who appear to that authority to be undesirable persons, shall not be deemed to be a restriction on the right of entry.

(3) Notwithstanding anything in this section, if the Governor-General or, as the case may be, the Governor of any Province, by public notification certifies that for the prevention of any grave menace to the peace or tranquillity of any part of India, as the case may be, of any part of the Province, or for the purpose of combating crimes of violence intended to overthrow the Government, it is expedient that the operation of the provisions of sub-section (1) of this section should be wholly or partially suspended in relation to any law, then while the notification is in force the operation of those provisions shall be suspended accordingly.

The functions of the Governor-General and of a Governor under this sub-section shall be exercised by him in his discretion.

112. *Taxation.* (1) No Federal or Provincial law which imposes any liability to taxation shall be such as to discriminate against British subjects domiciled in the United Kingdom or Burma or companies incorporated, whether before or after the

passing of this Act, by or under the laws of the United Kingdom or Burma, and any law passed or made in contravention of this section shall, to the extent of the contravention, be invalid.

(2) Without prejudice to the generality of the foregoing provisions, a law shall be deemed to be such as to discriminate against such persons or companies as aforesaid if it would result in any of them being liable to greater taxation than that to which they would be liable if domiciled in British India or incorporated by or under the laws of British India, as the case may be.

(3) For the purposes of this section a company incorporated before the commencement of part III of this Act under any existing Indian law and registered thereunder in Burma shall be deemed to be a company incorporated by or under the laws of Burma.

113. *Companies incorporated in the United Kingdom.* (1) Subject to the following provisions of this chapter, a company incorporated, whether before or after the passing of this Act, by or under the laws of the United Kingdom, and the members of the governing body of any such company and the holders of its shares, stock, debentures, debenture stock or bonds, and its officers, agents, and servants, shall be deemed to comply with so much of any Federal or Provincial law as imposes in regard to companies carrying on or proposing to carry on business in British India requirements or conditions relating to or connected with:

- (a) The place of incorporation of a company or the situation of its registered office, or the currency in which its capital or loan capital is expressed; or
- (b) The place of birth, race, descent, language, religion, domicile, residence or duration of residence of members of the governing body of a company, or of the holders of its shares, stock, debentures, debenture stock or bonds, or of its officers, agents or servants:

Provided that no company or person shall by virtue of this section be deemed to comply with any such requirement or condition as aforesaid if and so long as a like requirement or condition is imposed by or under the law of the United Kingdom in regard to companies incorporated by or under the laws of British India and carrying on or proposing to carry on business in the United Kingdom.

(2) If and in so far as any total or partial exemption from, or preferential treatment in respect of, taxation imposed on companies by or under any Federal or Provincial law depends on compliance with conditions as to any of the matters mentioned in sub-section (1) of this section, any company incorporated by or under the laws of the United Kingdom carrying on business in British India shall be deemed to satisfy those conditions and be entitled to the exemption or preferential treatment accordingly, so long as the taxation imposed by or under the laws of the United Kingdom on companies incorporated by or under the laws of British India and carrying on business in the United Kingdom does not depend on compliance with conditions as to any of the matters so mentioned.

114. *Companies incorporated in India.* (1) Subject to the following provisions of this chapter, a British subject domiciled in the United Kingdom shall be deemed to comply with so much of any Federal or Provincial law as imposes in regard to companies incorporated or proposed to be incorporated, whether before or after the passing of this Act, by or under the laws of British India, any requirements or conditions relating to or connected with, the place of birth, race, descent, language, religion, domicile, residence or duration of residence of members of the governing body of a company, or of the holders of its shares, stock debentures, debenture stock or bonds, or of its officers, agents or servants:

Provided that no person shall by virtue of this section be deemed to comply with any such requirement or condition as aforesaid if and so long as a like requirement or condition is imposed by or under the law of the United Kingdom in regard to companies incorporated or proposed to be incorporated by or under the laws of the United Kingdom on British subjects domiciled in British India.

(2) If and in so far as, in the case of any such companies as aforesaid, any total or partial exemption from, or preferential treatment in respect of, taxation imposed by or under any Federal or Provincial law depends on compliance with conditions as to any of the matters aforesaid, then, so far as regards such members of its governing body and such of the holders of its shares, stock, debentures, debenture stock or bonds, and such of its officers, agents, and servants, as are British subjects domiciled in the United Kingdom, any such company shall be deemed to satisfy those conditions and be entitled to the exemption or preferential treatment accordingly, so long as the taxation imposed by or under the laws of the United Kingdom on companies incorporated by or under those laws does not, as regards such of the members of a company's governing body, or such of the holders of its shares, stock, debentures, debenture stock or bonds, or such of its officers, agents, or servants, as are British subjects domiciled in British India, depend on compliance with conditions as to any of the matters aforesaid.

(3) For the purposes of this section, but not for the purposes of any other provision of this chapter, a company incorporated before the commencement of part III of this Act under any existing Indian law and registered thereunder in Burma, shall be deemed to be a company incorporated by or under the laws of British India.

115. *Ships and aircraft.* (1) No ship registered in the United Kingdom shall be subjected by or under any Federal or Provincial law to any treatment affecting either the ship herself, or her master, officers, crew, passengers or cargo, which is discriminatory in favour of ships registered in British India, except in so far as ships registered in British India are for the time being subjected by or under any law of the United Kingdom to treatment of a like character which is similarly discriminatory in favour of ships registered in the United Kingdom.

(2) This section shall apply in relation to aircraft as it applies in relation to ships.

(3) The provisions of this section are in addition to and not in derogation of the provisions of any of the preceding sections of this chapter.

116. *Subsidies for the encouragement of trade or industry.* (1) Notwithstanding anything in any Act of the Federal Legislature or of a Provincial Legislature, companies incorporated, whether before or after the passing of this Act, by or under the laws of the United Kingdom and carrying on business in India shall be eligible for any grant, bounty or subsidy payable out of the revenues of the Federation or of a Province for the encouragement of any trade or industry to the same extent as companies incorporated by or under the laws of British India are eligible therefor:

Provided that this sub-section shall not apply in relation to any grant, bounty or subsidy for the encouragement of any trade or industry, if and so long as under the law of the United Kingdom for the time being in force companies incorporated by or under the laws of British India and carrying on business in the United Kingdom are not equally eligible with companies incorporated by or under the laws of the United Kingdom for the benefit of any grant, bounty or subsidy payable out of public moneys in the United Kingdom for the encouragement of the same trade or industry.

(2) Notwithstanding anything in this chapter, an Act of the Federal Legislature or of a Provincial Legislature may require, in the case of a company which at the date of the passing of that Act was not engaged in British India in that branch of trade or industry which it is the purpose of the grant, bounty or subsidy to encourage, that the company shall not be eligible for any grant, bounty or subsidy under the Act unless and until:

- (a) The company is incorporated by or under the laws of British India or, if the Act so provides, is incorporated by or under the laws of British India or of a Federated State; and

- (b) Such proportion, not exceeding one half, of the members of its governing body as the Act may prescribe, are British subjects domiciled in India or, if the Act so provides, are either British subjects domiciled in India or subjects of a Federated State; and
- (c) The company gives such reasonable facilities as may be so prescribed for the training of British subjects domiciled in India or, if the Act so provides, of British subjects domiciled in India or subjects of a Federated State.

(3) For the purposes of this section a company incorporated by or under the laws of the United Kingdom shall be deemed to be carrying on business in India if it owns ships which habitually trade to and from ports in India.

117. *Supplemental.* The foregoing provisions of this chapter shall apply in relation to any ordinance, order, by-law, rule or regulation passed or made after the passing of this Act and having by virtue of any existing Indian law, or of any law of the Federal or any Provincial Legislature, the force of law as they apply in relation to Federal and Provincial laws, but, save as aforesaid, nothing in those provisions shall affect the operation of any existing Indian law.

118. *Power to secure reciprocal treatment by convention.* (1) If after the establishment of the Federation a convention is made between His Majesty's Government in the United Kingdom and the Federal Government whereby similarity of treatment is assured in the United Kingdom to British subjects domiciled in British India and to companies incorporated by or under the laws of British India and in British India to British subjects domiciled in the United Kingdom and to companies incorporated by or under the laws of the United Kingdom, respectively, in respect of the matters, or any of the matters, with regard to which provision is made in the preceding sections of this chapter, His Majesty may, if he is satisfied that all necessary legislation has been enacted both in the United Kingdom and in India for the purpose of giving effect to the convention, by Order in Council declare that the purposes of those sections are to such extent as may be specified in the Order sufficiently fulfilled by that convention and legislation, and while any such Order is in force, the operation of those sections shall to that extent be suspended.

(2) An Order in Council under this section shall cease to have effect if and when the convention to which it relates expires or is terminated by either party thereto.

119. *Professional and technical qualifications in general.* (1) No bill or amendment which prescribes, or empowers any authority to prescribe, the professional or technical qualifications which are to be requisite for any purpose in British India or which imposes, or empowers any authority to impose, by reference to any professional or technical qualification, any disability, liability, restriction or condition in regard to the practising of any profession, the carrying on of any occupation, trade or business, or the holding of any office in British India, shall be introduced or moved in either Chamber of the Federal Legislature without the previous sanction of the Governor-General in his discretion, or in a Chamber of a Provincial Legislature without the previous sanction of the Governor in his discretion.

(2) The Governor-General or a Governor shall not give his sanction for the purposes of the preceding sub-section unless he is satisfied that the proposed legislation is so framed as to secure that no person who, immediately before the coming into operation of any disability, liability, restriction or condition to be imposed by or under that legislation, was lawfully practising any profession, carrying on any occupation, trade, or business, or holding any office in British India shall, except in so far as may be necessary in the interests of the public, be debarred from continuing to practise that profession, carry on that occupation, trade or business, or hold that office, or from doing anything in the course of that pro-

fession, occupation, trade or business, or in the discharge of the duties of that office which he could lawfully have done if that disability, liability, restriction or condition had not come into operation.

(3) All regulations made under the provisions of any Federal or Provincial law which prescribe the professional or technical qualifications which are to be requisite for any purpose in British India or impose, by reference to any professional or technical qualification, any disability, liability, restriction or condition in regard to the practising of any profession, the carrying on of any occupation, trade or business, or the holding of any office in British India, shall, not less than four months before they are expressed to come into operation, be published in such manner as may be required by general or special directions of the Governor-General, or, as the case may be, the Governor, and, if within two months from the date of the publication complaint is made to the Governor-General or, as the case may be, the Governor that the regulations or any of them will operate unfairly as against any class of persons affected thereby, the Governor-General or Governor, if he is of opinion that the complaint is well founded, may, at any time before the regulations are expressed to come into operation, by public notification disallow the regulations or any of them.

In this sub-section the expression "regulations" includes rules, by-laws, orders and ordinances.

In the discharge of his functions under this sub-section the Governor-General or a Governor shall exercise his individual judgment.

(4) If the Governor-General exercising his individual judgment by public notification directs that the provisions of the last preceding sub-section shall apply in relation to any existing Indian law, those provisions shall apply in relation to that law accordingly, and the functions which under those provisions are to be performed in relation to a Federal law by the Governor-General and in relation to a Provincial law by the Governor shall, in relation to that existing Indian law, be performed, according as may be directed by the notification, by the Governor-General exercising his individual judgment, by the Governor exercising his individual judgment or partly by the one and partly by the other of them.

120. *Medical qualifications.* (1) So long as the condition set out in sub-section (3) of this section continues to be fulfilled, a British subject domiciled in the United Kingdom or India who, by virtue of a medical diploma granted to him in the United Kingdom, is, or is entitled to be, registered in the United Kingdom as a qualified medical practitioner shall not by or under any existing Indian law or any law of the Federal or any Provincial Legislature, be excluded from practising medicine, surgery or midwifery in British India, or in any part thereof, or from being registered as qualified so to do, on any ground other than the ground that the diploma held by him does not furnish a sufficient guarantee of his possessions of the requisite knowledge and skill for the practice of medicine, surgery and midwifery, and he shall not be so excluded on that ground unless a law of the Federation or of the Province, as the case may be, makes provision for securing:

- (a) That no proposal for excluding the holders of any particular diploma from practice or registration shall become operative until the expiration of twelve months after notice thereof has been given to the Governor-General and to the University or other body granting that diploma; and
- (b) That such a proposal shall not become operative or, as the case may be, shall cease to operate, if the Privy Council on an application made to them under the next succeeding sub-section determine that the diploma in question ought to be recognised as furnishing such a sufficient guarantee as aforesaid.

(2) If any University or other body in the United Kingdom which grants a medical diploma, or any British subject who holds such a diploma, is aggrieved by the proposal to exclude holders of that diploma from practice or registration in British India, that body or person may make an application to the Privy Council,



and the Privy Council, after giving to such authorities and persons both in British India and in the United Kingdom as they think fit an opportunity of tendering evidence or submitting representations in writing, shall determine whether the diploma in question does or does not furnish a sufficient guarantee of the possession of the requisite knowledge and skill for the practice of medicine, surgery and midwifery, and shall notify their determination to the Governor-General, who shall communicate it to such authorities, and cause it to be published in such manner, as he thinks fit.

(3) The condition referred to in sub-section (1) of this section is that British subjects domiciled in India who hold a medical diploma granted after examination in British India shall not be excluded from practising medicine, surgery or midwifery in the United Kingdom or from being registered therein as qualified medical practitioners, except on the ground that that diploma does not furnish a sufficient guarantee of the possession of the requisite knowledge and skill for the practice of medicine, surgery and midwifery, and shall only be excluded on that ground so long as the law of the United Kingdom makes provision for enabling any question as to the sufficiency of that diploma to be referred to and decided by the Privy Council.

(4) A medical practitioner entitled to practise or to be registered in British India by virtue of a diploma granted in the United Kingdom, or in the United Kingdom by virtue of a diploma granted in British India, shall not in the practice of his profession be subjected to any liability, disability, restriction or condition to which persons entitled to practise by virtue of diplomas granted in the other country are not subject.

(5) The foregoing provisions of this section shall, subject to the modifications hereinafter mentioned, apply in relation to British subjects domiciled in Burma who, by virtue of medical diplomas granted to them in Burma or the United Kingdom, are, or are entitled to be, registered in the United Kingdom as qualified medical practitioners as they apply in relation to British subjects domiciled in the United Kingdom who, by virtue of medical diplomas granted in the United Kingdom, are, or are entitled to be, registered in the United Kingdom as qualified medical practitioners.

The said modifications are as follows, that is to say:

- (a) Sub-section (3) shall not apply and the reference in sub-section (1) to the condition set out therein shall be deemed to be omitted;
- (b) Any reference in sub-section (2) or sub-section (4) to the United Kingdom shall be construed as a reference to Burma.

(6) Nothing in this section shall be construed as affecting any power of any recognised authority in the United Kingdom or British India to suspend or debar any person from practice on the ground of misconduct, or to remove any person from a register on that ground.

(7) In this section the expression "diploma" includes any certificate, degree, fellowship, or other document or status granted to persons passing examinations.

121. *Officers of Indian Medical Service, etc.* A person who holds a commission from His Majesty as a medical officer in the Indian Medical Service or any other branch of His Majesty's forces and is on the active list shall by virtue of that commission be deemed to be qualified to practise medicine, surgery and midwifery in British India, and be entitled to be registered in British India or any part thereof as so qualified.

## PART VI. ADMINISTRATIVE RELATIONS BETWEEN FEDERATION, PROVINCES AND STATES

### *General*

122. *Obligation of units and Federation.* (1) The executive authority of every Province and Federated State shall be so exercised as to secure respect for the laws of the Federal Legislature which apply in that Province or State.

(2) The reference in sub-section (1) of this section to laws of the Federal Legislature shall, in relation to any Province, include a reference to any existing Indian law applying in that Province.

(3) Without prejudice to any of the other provisions of this part of this Act, in the exercise of the executive authority of the Federation in any Province or Federated State regard shall be had to the interests of that Province or State.

123. *Governor-General may require Governors to discharge certain functions as his agents.* (1) The Governor-General may direct the Governor of any Province to discharge as his agent, either generally or in any particular case, such functions in and in relation to the tribal areas as may be specified in the direction.

(2) If in any particular case it appears to the Governor-General necessary or convenient so to do, he may direct the Governor of any Province to discharge as his agent such functions in relation to defence, external affairs, or ecclesiastical affairs as may be specified in the direction.

(3) In the discharge of any such functions the Governor shall act in his discretion.

124. *Power of Federation to confer powers, etc. on Provinces and States in certain cases.* (1) Notwithstanding anything in this Act, the Governor-General may with the consent of the Government of a Province or the Ruler of a Federated State, entrust either conditionally or unconditionally to that Government or Ruler, or to their respective officers, functions in relation to any matter to which the executive authority of the Federation extends.

(2) An Act of the Federal Legislature may, notwithstanding that it relates to a matter with respect to which a Provincial Legislature has no power to make laws, confer powers and impose duties upon a Province or officers and authorities thereof.

(3) An Act of the Federal Legislature which extends to a Federated State may confer powers and impose duties upon the State or officers and authorities thereof to be designated for the purpose by the Ruler.

(4) Where by virtue of this section powers and duties have been conferred or imposed upon a Province or Federated State or officers or authorities thereof, there shall be paid by the Federation to the Province or State such sum as may be agreed, or, in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India, in respect of any extra costs of administration incurred by the Province or State in connection with the exercise of those powers and duties.

125. *Administration of Federal Acts in Indian States.* (1) Notwithstanding anything in this Act, agreements may, and, if provision has been made in that behalf by the Instrument of Accession of the State, shall, be made between the Governor-General and the Ruler of a Federated State for the exercise by the Ruler or his officers of functions in relation to the administration in his State of any law of the Federal Legislature which applies therein.

(2) An agreement made under this section shall contain provisions enabling the Governor-General in his discretion to satisfy himself, by inspection or otherwise, that the administration of the law to which the agreement relates is carried out in accordance with the policy of the Federal Government and, if he is not so satisfied, the Governor-General, acting in his discretion, may issue such directions to the Ruler as he thinks fit.

(3) All courts shall take judicial notice of any agreement made under this section.

126. *Control of Federation over Province in certain cases.* (1) The executive authority of every Province shall be so exercised as not to impede or prejudice the exercise of the executive authority of the Federation, and the executive authority of the Federation shall extend to the giving of such directions to a Province as may appear to the Federal Government to be necessary for that purpose.

(2) The executive authority of the Federation shall also extend to the giving

of directions to a Province as to the carrying into execution therein of any Act of the Federal Legislature which relates to a matter specified in part II of the Concurrent Legislative List and authorises the giving of such directions:

Provided that a bill or amendment which proposes to authorise the giving of any such directions as aforesaid shall not be introduced into or moved in either Chamber of the Federal Legislature without the previous sanction of the Governor-General in his discretion.

(3) The executive authority of the Federation shall also extend to the giving of directions to a Province as to the construction and maintenance of means of communication declared in the direction to be of military importance:

Provided that nothing in this sub-section shall be taken as restricting the power of the Federation to construct and maintain means of communication as part of its functions with respect to naval, military and air force works.

(4) If it appears to the Governor-General that in any Province effect has not been given to any directions given under this section, the Governor-General, acting in his discretion, may issue as orders to the Governor of that Province either the directions previously given or those directions modified in such manner as the Governor-General thinks proper.

(5) Without prejudice to his powers under the last preceding sub-section, the Governor-General, acting in his discretion, may at any time issue orders to the Governor of a Province as to the manner in which the executive authority thereof is to be exercised for the purpose of preventing any grave menace to the peace or tranquillity of India or of any part thereof.

127. *Acquisition of land for Federal purposes.* The Federation may, if it deems it necessary to acquire any land situate in a Province for any purpose connected with a matter with respect to which the Federal Legislature has power to make laws, require the Province to acquire the land on behalf, and at the expense, of the Federation or, if the land belongs to the Province, to transfer it to the Federation on such terms as may be agreed or, in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India.

128. *Duty of Ruler of a State as respects Federal subjects.* (1) The executive authority of every Federated State shall be so exercised as not to impede or prejudice the exercise of the executive authority of the Federation so far as it is exercisable in the State by virtue of a law of the Federal Legislature which applies therein.

(2) If it appears to the Governor-General that the Ruler of any Federated State has in any way failed to fulfil his obligations under the preceding sub-section, the Governor-General, acting in his discretion, may after considering any representations made to him by the Ruler issue such directions to the Ruler as he thinks fit:

Provided that, if any question arises under this section as to whether the executive authority of the Federation is exercisable in a State with respect to any matter or as to the extent to which it is so exercisable, the question may, at the instance either of the Federation or the Ruler, be referred to the Federal Court for determination by that Court in the exercise of its original jurisdiction under this Act.

### *Broadcasting*

129. *Broadcasting.* (1) The Federal Government shall not unreasonably refuse to entrust to the Government of any Province or the Ruler of any Federated State such functions with respect to broadcasting as may be necessary to enable that Government or Ruler:

- (a) To construct and use transmitters in the Province or State;
- (b) To regulate, and impose fees in respect of the construction and use of transmitters and the use of receiving apparatus in the Province or State:

Provided that nothing in this sub-section shall be construed as requiring the Federal Government to entrust to any such Government or Ruler any control over the use of transmitters constructed or maintained by the Federal Government or by persons authorised by the Federal Government, or over the use of receiving apparatus by persons so authorised.

(2) Any functions so entrusted to a Government or Ruler shall be exercised subject to such conditions as may be imposed by the Federal Government, including, notwithstanding anything in this Act, any conditions with respect to finance, but it shall not be lawful for the Federal Government so to impose any conditions regulating the matter broadcast by, or by authority of, the Government or Ruler.

(3) Any Federal laws which may be passed with respect to broadcasting shall be such as to secure that effect can be given to the foregoing provisions of this section.

(4) If any question arises under this section whether any conditions imposed on any such Government or Ruler are lawfully imposed, or whether any refusal by the Federal Government to entrust functions is unreasonable, the question shall be determined by the Governor-General in his discretion.

(5) Nothing in this section shall be construed as restricting the powers conferred on the Governor-General by this Act for the prevention of any grave menace to the peace or tranquillity of India or any part thereof, or as prohibiting the imposition on Governments or Rulers of such conditions regulating matter broadcast as appear to be necessary to enable the Governor-General to discharge his functions in so far as he is by or under this Act required in the exercise thereof to act in his discretion or to exercise his individual judgment.

#### *Interference with Water Supplies*

130. *Complaints as to interference with water supplies.* If it appears to the Government of any Governor's Province or to the Ruler of any Federated State that the interests of that Province or State, or of any of the inhabitants thereof, in the water from any natural source of supply in any Governor's or Chief Commissioner's Province or Federated State, have been, or are likely to be, affected prejudicially by:

- (a) Any executive action or legislation taken or passed, or proposed to be taken or passed; or
- (b) The failure of any authority to exercise any of their powers, with respect to the use, distribution or control of water from that source, the Government or Ruler may complain to the Governor-General.

131. *Decision of complaints.* (1) If the Governor-General receives such a complaint as aforesaid, he shall, unless he is of opinion that the issues involved are not of sufficient importance to warrant such action, appoint a Commission consisting of such persons having special knowledge and experience in irrigation, engineering, administration, finance or law, as he thinks fit, and request that Commission to investigate in accordance with such instructions as he may give to them, and to report to him on the matters to which the complaint relates, or such of those matters as he may refer to them.

(2) A Commission so appointed shall investigate the matters referred to them and present to the Governor-General a report setting out the facts as found by them and making such recommendations as they think proper.

(3) If it appears to the Governor-General upon consideration of the Commission's report that anything therein contained requires explanation, or that he needs guidance upon any point not originally referred by him to the Commission, he may again refer the matter to the Commission for further investigation and a further report.

(4) For the purpose of assisting a Commission appointed under this section in investigating any matters referred to them, the Federal Court, if requested by the Commission so to do, shall make such orders and issue such letters of request for the purposes of the proceedings of the Commission as they may make or issue in the exercise of the jurisdiction of the court.

(5) After considering any report made to him by the Commission, the Governor-General shall give such decision and make such order, if any, in the matter of the complaint as he may deem proper:

Provided that if, before the Governor-General has given any decision, the Government of any Province or the Ruler of any State affected request him so to do, he shall refer the matter to His Majesty in Council and His Majesty in Council may give such decision and make such order, if any, in the matter as he deems proper.

(6) Effect shall be given in any Province or State affected to any order made under this section by His Majesty in Council or the Governor-General, and any Act of a Provincial Legislature or of a State which is repugnant to the order shall, to the extent of the repugnancy, be void.

(7) Subject as hereinafter provided the Governor-General, on application made to him by the Government of any Province, or the Ruler of any State affected, may at any time, if after a reference to, and report from, a Commission appointed as aforesaid he considers it proper so to do, vary any decision or order given or made under this section:

Provided that, where the application relates to a decision or order of His Majesty in Council and in any other case if the Government of any Province or the Ruler of any State affected request him so to do, the Governor-General shall refer the matter to His Majesty in Council, and His Majesty in Council may, if he considers proper so to do, vary the decision or order.

(8) An order made by His Majesty in Council or the Governor-General under this section may contain directions as to the Government or persons by whom the expenses of the Commission and any costs incurred by any Province, State or persons in appearing before the Commission are to be paid, and may fix the amount of any expenses or costs to be so paid, and so far as it relates to expenses or costs, may be enforced as if it were an order made by the Federal Court.

(9) The functions of the Governor-General under this section shall be exercised by him in his discretion.

132. *Interference with water supplies of Chief Commissioner's Province.* If it appears to the Governor-General that the interests of any Chief Commissioner's Province, or of any of the inhabitants of such a Province, in the water from any natural source of supply in any Governor's Province or Federated State have been or are likely to be affected prejudicially by:

- (a) Any executive action or legislation taken or passed, or proposed to be taken or passed; or
- (b) The failure of any authority to exercise any of their powers, with respect to the use, distribution or control of water from that source, he may, if he in his discretion thinks fit, refer the matter to a Commission appointed in accordance with the provisions of the last preceding section and thereupon those provisions shall apply as if the Chief Commissioner's Province were a Governor's Province and as if a complaint with respect to the matter had been made by the Government of that Province to the Governor-General.

133. *Jurisdiction of Courts excluded.* Notwithstanding anything in this Act, neither the Federal Court nor any other court shall have jurisdiction to entertain any action or suit in respect of any matter if action in respect of that matter might have been taken under any of the three last preceding sections by the Government of a Province, the Ruler of a State, or the Governor-General.

134. *Ruler of State may exclude application of provisions as to water supply.*

The provisions contained in this part of this Act with respect to interference with water supplies shall not apply in relation to any Federated State the Ruler whereof has declared in his Instrument of Accession that those provisions are not to apply in relation to his State.

### *Inter-Provincial Co-operation*

135. *Provisions with respect to an Inter-Provincial Council.* If at any time it appears to His Majesty upon consideration of representations addressed to him by the Governor-General that the public interests would be served by the establishment of an Inter-Provincial Council charged with the duty of:

- (a) Enquiring into and advising upon disputes which may have arisen between Provinces;
- (b) Investigating and discussing subjects in which some or all of the Provinces, or the Federation and one or more of the Provinces, have a common interest; or
- (c) Making recommendations upon any such subject and, in particular, recommendations for the better co-ordination of policy and action with respect to that subject,

it shall be lawful for His Majesty in Council to establish such a Council, and to define the nature of the duties to be performed by it and its organisation and procedure.

An order establishing any such Council may make provision for representatives of Indian States to participate in the work of the Council.

## PART VII. FINANCE, PROPERTY, CONTRACTS AND SUITS

### *Chapter I. Finance*

#### MISCELLANEOUS FINANCIAL PROVISIONS

150. *Expenditure defrayable out of Indian Revenues.* (1) No burden shall be imposed on the revenues of the Federation or the Provinces except for the purposes of India or some part of India.

(2) Subject as aforesaid, the Federation or a Province may make grants for any purpose, notwithstanding that the purpose is not one with respect to which the Federal or the Provincial Legislature, as the case may be, may make laws.

152. *Exercise by Governor-General of certain powers with respect to Reserve Bank.* (1) The functions of the Governor-General with respect to the following matters shall be exercised by him in his discretion, that is to say:

- (a) The appointment and removal from office of the Governor and Deputy Governors of the Reserve Bank of India, the approval of their salaries and allowances, and the fixing of their terms of office;
- (b) The appointment of an officiating Governor or Deputy Governor of the Bank;
- (c) The supersession of the Central Board of the Bank and any action consequent thereon; and
- (d) The liquidation of the Bank.

(2) In nominating directors of the Reserve Bank of India and in removing from office any director nominated by him, the Governor-General shall exercise his individual judgment.

153. *Previous sanction of Governor-General to legislation with respect to Reserve Bank, currency and coinage.* No bill or amendment which affects the coinage or currency of the Federation or the constitution or functions of the Reserve Bank of India shall be introduced into or moved in either Chamber of the Federal Legislature without the previous sanction of the Governor-General in his discretion.

154. *Exemption of certain public property from taxation.* Property vested in His Majesty for purposes of the government of the Federation shall, save in so far as any Federal law may otherwise provide, be exempt from all taxes imposed by, or by any authority within, a Province or Federated State:

Provided that, until any Federal law otherwise provides, any property so vested which was immediately before the commencement of part III of this Act liable, or treated as liable, to any such tax, shall, so long as that tax continues, continue to be liable, or to be treated as liable, thereto.

155. *Exemption of Provincial Governments and Rulers of Federated States in respect of Federal taxation.* (1) Subject as hereinafter provided, the Government of a Province and the Ruler of a Federated State shall not be liable to Federal taxation in respect of lands or buildings situate in British India or income accruing, arising or received in British India:

Provided that:

- (a) Where a trade or business of any kind is carried on by or on behalf of the Government of a Province in any part of British India outside that Province or by a Ruler in any part of British India, nothing in this sub-section shall exempt that Government or Ruler from any Federal taxation in respect of that trade or business, or any income arising in connection therewith, or any property occupied for the purposes thereof;
- (b) Nothing in this sub-section shall exempt a Ruler from any Federal taxation in respect of any lands, buildings or income being his personal property or personal income.

(2) Nothing in this Act affects any exemption from taxation enjoyed as of right at the passing of this Act by the Ruler of an Indian State in respect of any Indian Government securities issued before that date.

157. *Duty of Federation and Provinces to supply Secretary of State with funds.* (1) The Federation and every Province shall secure that there are from time to time in the hands of the Secretary of State sufficient moneys to enable him to make such payments as he may have to make in respect of any liability which falls to be met out of the revenues of the Federation or of the Province as the case may be.

(2) Without prejudice to their obligations under the preceding sub-section, the Federation and every Province shall secure that there are from time to time in the hands of the Secretary of State and the High Commissioner sufficient moneys to enable payment to be made of all pensions payable out of the revenues of the Federation or the Province, as the case may be, in the United Kingdom or through officers accounting to the Secretary of State or to the High Commissioner.

158. *Provisions as to relation of Burma monetary system with India.* (1) His Majesty in Council may make such provision as may appear to him to be necessary or proper for defining and regulating the relations between the monetary systems of India and Burma and for purposes connected with or ancillary to those purposes, and in particular, but without prejudice to the generality of this section, such provision as may appear to His Majesty to be necessary or proper for the purpose of giving effect to any arrangements with respect to the said matters made before the commencement of part III of this Act with the approval of the Secretary of State by the Governor of Burma in Council with the Governor-General in Council or any other persons.

(2) Any sums required by an order under this section to be paid by the Federation shall be charged on the revenues of the Federation.

## PART VIII. THE FEDERAL RAILWAY AUTHORITY

183. *Directions and principles to be observed by Railway Authority.* (1) The Authority in discharging their functions under this Act shall act on business principles, due regard being had by them to the interests of agriculture, industry, commerce and the general public and in particular shall make proper provision for meeting out of their receipts on revenue account all expenditure to which such receipts are applicable under the provisions of this part of this Act.

(2) In the discharge of their said functions the Authority shall be guided by such instructions on questions of policy as may be given to them by the Federal Government.

If any dispute arises under this sub-section between the Federal Government and the Authority as to whether a question is or is not a question of policy, the decision of the Governor-General in his discretion shall be final.

(3) The provisions of sub-section (1) of this section shall apply in relation to the discharge by the Federal Government of their functions with respect to railways as they apply in relation to the function of the Authority, but nothing in this sub-section shall be construed as limiting the powers of the Governor-General under the next succeeding sub-section.

(4) The provisions of this Act relating to the special responsibilities of the Governor-General, and to his duty as regards certain matters to exercise his functions in his discretion or to exercise his individual judgment, shall apply as regards matters entrusted to the Authority as if the executive authority of the Federation in regard to those matters were vested in him, and as if the functions of the Authority as regards those matters were the functions of ministers, and the Governor-General may issue to the Authority such directions as he may deem necessary as regards any matter which appears to him to involve any of his special responsibilities, or as regards which he is by or under this Act required to act in his discretion or to exercise his individual judgment, and the Authority shall give effect to any directions so issued to them.

186. *Finance of the Railway Authority.* (1) The Authority shall establish, maintain and control a fund (which shall be known as the "Railway Fund") and all moneys received by the Authority, whether on revenue account or on capital account, in the discharge of their functions and all moneys provided, whether on revenue account or on capital account, out of the revenues of the Federation to enable them to discharge those functions shall be paid into that Fund, and all expenditure, whether on revenue account or on capital account, required for the discharge of their functions shall be defrayed out of that Fund:

Provided that nothing in this subsection shall prevent the Authority from establishing and maintaining separate provident funds for the benefit of persons who are or have been employed in connection with railways.

(2) The receipts of the Authority on revenue account in any financial year shall be applied in:

- (a) Defraying working expenses;
- (b) Meeting payments due under contracts or agreements to railway undertakings;
- (c) Paying pensions, and contributions to provident funds;
- (d) Repaying to the revenues of the Federation so much of any pensions and contributions to provident funds charged by this Act on those revenues as is attributable to service on railways in India;
- (e) Making due provision for maintenance, renewals, improvements and depreciations;
- (f) Making to the revenues of the Federation any payments by way of interest which they are required by this part of this Act to make; and
- (g) Defraying other expenses properly chargeable against revenue in that year.



(3) Any surpluses on revenue account shown in the accounts of the Authority shall be apportioned between the Federation and the Authority in accordance with a scheme to be prepared, and from time to time reviewed, by the Federal Government or, until such a scheme has been prepared, in accordance with the principles which immediately before the establishment of the Authority regulated the application of surpluses in railway accounts, and any sum apportioned to the Federation under this sub-section shall be transferred accordingly and shall form part of the revenues of the Federation.

(4) The Federation may provide any moneys, whether on revenue account or capital account, for the purposes of the Railway Authority, but, where any moneys are so provided, the provision thereof shall be deemed to be expenditure and shall accordingly be shown as such in the estimates of expenditure laid before the Chambers of the Legislature.

191. *Railway Rates Committee.* The Governor-General may from time to time appoint a Railway Rates Committee to give advice to the Authority in connection with any dispute between persons using, or desiring to use, a railway and the Authority as to rates or traffic facilities which he may require the Authority to refer to the committee.

192. *Bills and amendments for regulating rates and fares to require recommendation of Governor-General.* A bill or amendment making provision for regulating the rates or fares to be charged on any railway shall not be introduced or moved in either Chamber of the Federal Legislature except on the recommendation of the Governor-General.

193. *Obligation of Railway Authority and Federated States to afford mutual traffic facilities and to avoid unfair discrimination, etc.* (1) It shall be the duty of the Authority and every Federated State so to exercise their powers in relation to the railways with which they are respectively concerned as to afford all reasonable facilities for the receiving, forwarding, and delivering of traffic upon and from those railways, including the receiving, forwarding, and delivering of through traffic at through rates, and as to secure that there shall be between one railway system and another no unfair discrimination, by the granting of undue preferences or otherwise, and no unfair or uneconomic competition.

(2) Any complaint by the Authority against a Federated State or by a Federated State against the Authority on the ground that the provisions of the preceding sub-section have not been complied with shall be made to and determined by the Railway Tribunal.

194. *Appeal by State to Railway Tribunal from certain directions of Railway Authority.* If the Authority, in the exercise of any executive authority of the Federation in relation to interchange of traffic, or maximum or minimum rates and fares, or station or service terminal charges, give any direction to a Federated State, the State may complain that the direction discriminates unfairly against the railways of the State, or imposes on the State an obligation to afford facilities which are not in the circumstances reasonable, and any such complaint shall be determined by the Railway Tribunal.

195. *Construction and reconstruction of railways.* (1) The Governor-General acting in his discretion shall make rules requiring the Authority and any Federated State to give notice in such cases as the rules may prescribe of any proposal for constructing a railway or for altering the alignment or gauge of a railway, and to deposit plans.

(2) The rules so made shall contain provisions enabling objections to be lodged by the Authority or by a Federated State on the ground that the carrying out of the proposal will result in unfair or uneconomic competition with a Federal railway or a State railway, as the case may be, and, if an objection so lodged is not withdrawn within the prescribed time, the Governor-General shall refer to the Railway Tribunal the question whether the proposal ought to be carried into effect, either without modification or with such modification as the Tribunal may approve,

and the proposal shall not be proceeded with save in accordance with the decision of the Tribunal.

(3) This section shall not apply in any case where the Governor-General in his discretion certifies that for reasons connected with defence effect should, or should not, be given to a proposal.

196. *Railway Tribunal.* (1) There shall be a Tribunal (in this Act referred to as "the Railway Tribunal") consisting of a President and two other persons to be selected to act in each case by the Governor-General in his discretion from a panel of eight persons appointed by him in his discretion, being persons with railway, administrative, or business experience.

(2) The President shall be such one of the judges of the Federal Court as may be appointed for the purpose by the Governor-General in his discretion after consultation with the Chief Justice of India and shall hold office for such period of not less than five years as may be specified in the appointment, and shall be eligible for re-appointment for a further period of five years or any less period:

Provided that, if the President ceases to be a judge of the Federal Court, he shall thereupon cease to be President of the Tribunal and, if he is for any reason temporarily unable to act, the Governor-General in his discretion may after the like consultation appoint another judge of the Federal Court to act for the time being in his place.

.....

(4) An appeal shall lie to the Federal Court, from any decision of the Railway Tribunal on a question of law, but no appeal shall lie from the decision of the Federal Court on any such appeal.

.....

(7) Subject to the provisions of this section relating to appeals to the Federal Court, no court shall have any jurisdiction with respect to any matter with respect to which the Railway Tribunal has jurisdiction.

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## PART X. THE SERVICES OF THE CROWN IN INDIA

### *Chapter II. Civil Services*

#### RECRUITMENT BY SECRETARY OF STATE AND PROVISIONS AS TO CERTAIN POSTS

245. *Special provision as to irrigation.* Until Parliament otherwise determines, the Secretary of State may for the purpose of securing efficiency in irrigation in any Province, appoint persons to any civil service of, or civil post under, the Crown in India concerned with irrigation.

### *Chapter V. General*

275. *Persons not to be disqualified by sex for holding certain offices.* A person shall not be disqualified by sex for being appointed to any civil service of, or civil post under, the Crown in India other than such a service or post as may be specified by any general or special order made:

- (a) By the Governor-General in the case of services and posts in connection with the affairs of the Federation;
- (b) By the Governor of a Province in the case of services and posts in connection with the affairs of the Province;
- (c) By the Secretary of State in relation to appointments made by him:

Provided that any such agreement with respect to joint services and posts as is mentioned in chapter II of this part of this Act may provide for the powers conferred by this section on the Governor-General and the Governor of a Province being exercised, with respect to the services or posts to which the agreement applies, by the Governor-General or a specified Governor.

## PART XII. MISCELLANEOUS AND GENERAL

297. *Prohibition of certain restrictions on internal trade.* (1) No Provincial Legislature or Government shall:

- (a) By virtue of the entry in the Provincial Legislative List relating to trade and commerce within the Province, or the entry in that List relating to the production, supply, and distribution of commodities, have power to pass any law or take any executive action prohibiting or restricting the entry into, or export from, the Province of goods of any class or description; or
- (b) By virtue of anything in this Act have power to impose any tax, cess, toll, or due which, as between goods manufactured or produced in the Province and similar goods not so manufactured or produced, discriminates in favour of the former, or which, in the case of goods manufactured or produced outside the Province, discriminates between goods manufactured or produced in one locality and similar goods manufactured or produced in another locality.

(2) Any law passed in contravention of this section shall, to the extent of the contravention, be invalid.

298. *Persons not to be subjected to disability by reason of race, religion, etc.* (1) No subject of His Majesty domiciled in India shall on grounds only of religion, place of birth, descent, colour or any of them be ineligible for office under the Crown in India, or be prohibited on any such grounds from acquiring, holding or disposing of property or carrying on any occupation, trade, business or profession in British India.

(2) Nothing in this section shall affect the operation of any law which:

- (a) Prohibits, either absolutely or subject to exceptions, the sale or mortgage of agricultural land situate in any particular area, and owned by a person belonging to some class recognised by the law as being a class of persons engaged in or connected with agriculture in that area, to any person not belonging to any such class; or
- (b) Recognises the existence of some right, privilege or disability attaching to members of a community by virtue of some personal law or custom having the force of the law.

(3) Nothing in this section shall be construed as derogating from the special responsibility of the Governor-General or of a Governor for the safeguarding of the legitimate interests of minorities.

299. *Compulsory acquisition of land, etc.* (1) No person shall be deprived of his property in British India save by authority of law.

(2) Neither the Federal nor a Provincial Legislature shall have power to make any law authorising the compulsory acquisition for public purposes of any land, or any commercial or industrial undertaking, or any interest in, or in any company owning, any commercial or industrial undertaking, unless the law provides for the payment of compensation for the property acquired and either fixes the amount of the compensation, or specifies the principles on which, and the manner in which, it is to be determined.

(3) No bill or amendment making provision for the transference to public

ownership of any land or for the extinguishment or modification of rights therein, including rights or privileges in respect of land revenue, shall be introduced or moved in either Chamber of the Federal Legislature without the previous sanction of the Governor-General in his discretion, or in a Chamber of a Provincial Legislature without the previous sanction of the Governor in his discretion.

(4) Nothing in this section shall affect the provisions of any law in force at the date of the passing of this Act.

(5) In this section "land" includes immovable property of every kind and any rights in or over such property, and "undertaking" includes part of an undertaking.

## SCHEDULES

### FIRST SCHEDULE. COMPOSITION OF THE FEDERAL LEGISLATION

#### *Part I. Representatives of British India*

##### THE FEDERAL ASSEMBLY

17. The allocation of seats in the Federal Assembly, other than seats allotted to Indian States, shall be as shown in the relevant Table of Seats appended to this Part of this Schedule.

18. To each Governor's Province and Chief Commissioner's Province specified in the first column of the Table there shall be allotted the number of seats specified in the second column opposite to that Province, and of those seats:

- (ii) The numbers specified in the next eight columns shall be the numbers of seats to be filled respectively by persons chosen to represent . . . (f) the interests of commerce and industry; (g) landholders; and (h) the interests of labour; and
- (iii) The number specified in the thirteenth column shall be the number of seats reserved to women.

There shall also be in the Federal Assembly four seats not allotted to any Province, of which three shall be seats to be filled by representatives of commerce and industry and one shall be a seat to be filled by a representative of labour.

23. Persons to fill the seats in the Federal Assembly which are to be filled by representatives of commerce and industry, landholders and representatives of labour shall be chosen:

- (a) In the case of a seat allotted to a Province which is to be filled by a representative of commerce and industry, by such chambers of commerce and similar associations voting in such manner as may be prescribed;
- (b) In the case of a seat allotted to a Province which is to be filled by a landholder, by such persons voting in such territorial constituencies and in such manner as may be prescribed;
- (c) In the case of a seat allotted to a Province which is to be filled by a representative of labour, by such organisations, or in such constituencies, and in accordance with such manner of voting as may be prescribed;
- (d) In the case of one of the non-Provincial seats which are to be filled by representatives of commerce and industry, by such Associated Chambers of Commerce, in the case of another such seat by such Federated Chambers of Commerce and in the case of the third such seat by such commercial bodies in Northern India, voting in each case in such manner as may be prescribed; and
- (e) In the case of the non-Provincial seat which is to be filled by a representative of labour, by such organisations voting in such manner as may be prescribed.

## FIFTH SCHEDULE. COMPOSITION OF PROVINCIAL LEGISLATURES

*Legislative Assemblies*

3. The allocation of seats in Provincial Legislative Assemblies shall be as shown in the relevant Table of Seats appended to this Schedule.

4. In the Legislative Assembly of each Province specified in the first column of the Table of Seats there shall be the number of seats specified in the second column opposite to that Province, and of those seats:

- (ii) The numbers specified in the next ten columns shall be the numbers of seats to be filled by persons chosen to represent respectively . . . (g) the interests of commerce, industry, mining and planting; (h) landholders; (i) universities; and (j) the interests of labour; and

. . . . .

10. In a Province in which any seats are to be filled by representatives of backward areas or backward tribes, representatives of commerce, industry, mining and planting, representatives of landholders, representatives of universities or representatives of labour, persons to fill those seats, and in Bihar the person to fill the Indian Christian seat, shall be chosen in such manner as may be prescribed . . .

## SEVENTH SCHEDULE. LEGISLATIVE LISTS

*List I. Federal Legislative List*

1. His Majesty's naval, military and air forces borne on the Indian establishment and any other armed force raised in Indian States or military or armed police maintained by Provincial Governments; any armed forces which are not forces of His Majesty, but are attached to or operating with any of His Majesty's naval, military or air forces borne on the Indian establishment; central intelligence bureau; preventive detention in British India for reasons of State connected with defence, external affairs, or the discharge of the functions of the Crown in its relations with Indian States.

2. Naval, military and air force works; local self government in cantonment areas (not being cantonment areas of Indian State Troops), the regulation of house accommodation in such areas, and, within British India, the delimitation of such areas.

3. External affairs; the implementing of treaties and agreements with other countries; extradition, including the surrender of criminals and accused persons to parts of His Majesty's dominions outside India.

4. Ecclesiastical affairs, including European cemeteries.

5. Currency, coinage and legal tender.

6. Public debt of the Federation.

7. Posts and telegraphs, including telephones, wireless, broadcasting, and other like forms of communication; Post Office Savings Bank.

8. Federal Public Services and Federal Public Service Commission.

9. Federal pensions, that is to say, pensions payable by the Federation or out of Federal revenues.

10. Works, lands and buildings vested in, or in the possession of, His Majesty for the purposes of the Federation (not being naval, military or air force works), but, as regards property situate in a Province, subject always to Provincial legislation, save in so far as Federal law otherwise provides, and, as regards property in a Federated State held by virtue of any lease or agreement with that State, subject to the terms of that lease or agreement.

11. The Imperial Library, the Indian Museum, the Imperial War Museum, the Victoria Memorial, and any similar institution controlled or financed by the Federation.

12. Federal agencies and institutes for the following purposes, that is to say, for research, for professional or technical training, or for the promotion of special studies.

13. The Benares Hindu University and the Aligarh Muslim University.

14. The Survey of India, the Geological, Botanical and Zoological Surveys of India; Federal Meteorological organisations.

15. Ancient and historical monuments; archaeological sites and remains.

16. Census.

17. Admission into, and emigration and expulsion from, India, including in relation thereto the regulation of the movements in India of persons who are not British subjects domiciled in India, subjects of any Federated State, or British subjects domiciled in the United Kingdom; pilgrimages to places beyond India.

18. Port quarantine; seamen's and marine hospitals, and hospitals connected with port quarantine.

19. Import and export across customs frontiers as defined by the Federal Government.

20. Federal railways; the regulation of all railways other than minor railways in respect of safety, maximum and minimum rates and fares, station and service terminal charges, interchange of traffic and the responsibility of railway administrations as carriers of goods and passengers; the regulation of minor railways in respect of safety and the responsibility of the administrations of such railways as carriers of goods and passengers.

21. Maritime shipping and navigation, including shipping and navigation on tidal waters; Admiralty jurisdiction.

22. Major ports, that is to say, the declaration and delimitation of such ports, and the constitution and powers of Port Authorities therein.

23. Fishing and fisheries beyond territorial waters.

24. Aircraft and air navigation; the provision of aerodromes; regulation and organisation of air traffic and of aerodromes.

25. Lighthouses, including lightships, beacons and other provision for the safety of shipping and aircraft.

26. Carriage of passengers and goods by sea or by air.

27. Copyright, inventions, designs, trademarks and merchandise marks.

28. Cheques, bills of exchange, promissory notes and other like instruments.

29. Arms, firearms, ammunition.

30. Explosives.

31. Opium, so far as regards cultivation and manufacture, or sale for export.

32. Petroleum and other liquids and substances declared by Federal law to be dangerously inflammable, so far as regards possession, storage and transport.

33. Corporations, that is to say, the incorporation, regulation and winding-up of trading corporations, including banking, insurance and financial corporations, but not including corporations owned or controlled by a Federated State and carrying on business only within that State or co-operative societies, and of corporations, whether trading or not, with objects not confined to one unit.

34. Development of industries, where development under Federal control is declared by Federal law to be expedient in the public interest.

35. Regulation of labour and safety in mines and oilfields.

36. Regulation of mines and oilfields and mineral development to the extent to which such regulation and development under Federal control is declared by Federal law to be expedient in the public interest.

37. The law of insurance, except as respects insurance undertaken by a Federated State, and the regulation of the conduct of insurance business, except as respects business undertaken by a Federated State; Government insurance, except so far as undertaken by a Federated State, or, by virtue of any entry in the Provincial Legislative List or the Concurrent Legislative List, by a Province.

38. Banking, that is to say, the conduct of banking business by corporations

other than corporations owned or controlled by a Federated State and carrying on business only within that State.

39. Extension of the powers and jurisdiction of members of a police force belonging to any part of British India to any area in another Governor's Province or Chief Commissioner's Province, but not so as to enable the police of one part to exercise powers and jurisdiction elsewhere without the consent of the Government of the Province or the Chief Commissioner, as the case may be; extension of the powers and jurisdiction of members of a police force belonging to any unit to railway areas outside that unit.

40. Elections to the Federal Legislature, subject to the provisions of this Act and of any Order in Council made thereunder.

41. The salaries of the Federal Ministers, of the President and Vice-President of the Council of State and of the Speaker and Deputy Speaker of the Federal Assembly; the salaries, allowances and privileges of the members of the Federal Legislature; and, to such extent as is expressly authorised by part II of this Act, the punishment of persons who refuse to give evidence or produce documents before Committees of the Legislature.

42. Offences against laws with respect to any of the matters in this List.

43. Enquiries and statistics for the purposes of any of the matters in this List.

44. Duties of customs, including export duties.

45. Duties of excise on tobacco and other goods manufactured or produced in India except:

- (a) Alcoholic liquors for human consumption;
- (b) Opium, Indian hemp and other narcotic drugs and narcotics; non-narcotic drugs;
- (c) Medicinal and toilet preparations containing alcohol, or any substance included in sub-paragraph (b) of this entry.

46. Corporation tax.

47. Salt.

48. State lotteries.

49. Naturalisation.

50. Migration within India from or into a Governor's Province or a Chief Commissioner's Province.

51. Establishment of standards of weight.

52. Ranchi European Mental Hospital.

53. Jurisdiction and powers of all courts, except the Federal Court, with respect to any of the matters in this List and, to such extent as is expressly authorised by part IX of this Act, the enlargement of the appellate jurisdiction of the Federal Court, and the conferring thereon of supplemental powers.

54. Taxes on income other than agricultural income.

55. Taxes on the capital value of the assets, exclusive of agricultural land, of individuals and companies; taxes on the capital of companies.

56. Duties in respect of succession to property other than agricultural land.

57. The rates of stamp duty in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, proxies and receipts.

58. Terminal taxes on goods or passengers carried by railway or air; taxes on railway fares and freights.

59. Fees in respect of any of the matters in this List, but not including fees taken in any Court.

### *List II. Provincial Legislative List*

1. Public order (but not including the use of His Majesty's naval, military or air forces in aid of the civil power); the administration of justice; constitution

and organisation of all courts, except the Federal Court, and fees taken therein; preventive detention for reasons connected with the maintenance of public order; persons subjected to such detention.

2. Jurisdiction and powers of all courts except the Federal Court, with respect to any of the matters in this List; procedure in Rent and Revenue Courts.

3. Police, including railway and village police.

4. Prisons, reformatories, Borstal institutions and other institutions of a like nature, and persons detained therein; arrangements with other units for the use of prisons and other institutions.

5. Public debt of the Province.

6. Provincial Public Services and Provincial Public Service Commissions.

7. Provincial pensions, that is to say, pensions payable by the Province or out of Provincial revenues.

8. Works, lands and buildings vested in or in the possession of His Majesty for the purposes of the Province.

9. Compulsory acquisition of land.

10. Libraries, museums and other similar institutions controlled or financed by the Province.

11. Elections to the Provincial Legislature, subject to the provisions of this Act and of any Order in Council made thereunder.

12. The salaries of the Provincial Ministers, of the Speaker and Deputy Speaker of the Legislative Assembly, and, if there is a Legislative Council, of the President and Deputy President thereof; the salaries, allowances and privileges of the members of the Provincial Legislature; and, to such extent as is expressly authorised by part III of this Act, the punishment of persons who refuse to give evidence or produce documents before Committees of the Provincial Legislature.

13. Local government, that is to say, the constitution and powers of municipal corporations, improvement trusts, district boards, mining settlement authorities and other local authorities for the purpose of local self government or village administration.

14. Public health and sanitation; hospitals and dispensaries; registration of births and deaths.

15. Pilgrimages, other than pilgrimages to places beyond India.

16. Burials and burial grounds.

17. Education.

18. Communications, that is to say, roads, bridges, ferries, and other means of communication not specified in List I; minor railways subject to the provisions of List I with respect to such railways; municipal tramways; ropeways; inland waterways and traffic thereon subject to the provisions of List III with regard to such waterways; ports, subject to the provisions in List I with regard to major ports; vehicles other than mechanically propelled vehicles.

19. Water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage and water power.

20. Agriculture, including agricultural education and research, protection against pests and prevention of plant diseases; improvement of stock and prevention of animal diseases; veterinary training and practice; pounds and the prevention of cattle trespass.

21. Land, that is to say, rights in or over land, land tenures, including the relation of landlord and tenant, and the collection of rents; transfer, alienation and devolution of agricultural land; land improvement and agricultural loans; colonisation; Courts of Wards; encumbered and attached estates; treasure trove.

22. Forests.

23. Regulation of mines and oilfields and mineral development subject to the provisions of List I with respect to regulation and development under Federal control.

24. Fisheries.



25. Protection of wild birds and wild animals.
26. Gas and gasworks.
27. Trade and commerce within the Province; markets and fairs; money lending and money lenders.
28. Inns and innkeepers.
29. Production, supply and distribution of goods; development of industries, subject to the provisions in List I with respect to the development of certain industries under Federal control.
30. Adulteration of foodstuffs and other goods; weights and measures.
31. Intoxicating liquors and narcotic drugs, that is to say, the production, manufacture, possession, transport, purchase and sale of intoxicating liquors, opium and other narcotic drugs, but subject, as respects opium, to the provisions of List I and, as respects poisons and dangerous drugs, to the provisions of List III.
32. Relief of the poor, unemployment.
33. The incorporation, regulation, and winding-up of corporations other than corporations specified in List I; unincorporated trading, literary, scientific, religious and other societies and associations; co-operative societies.
34. Charities and charitable institutions; charitable and religious endowments.
35. Theatres, dramatic performances and cinemas, but not including the sanction of cinematograph films for exhibition.
36. Betting and gambling.
37. Offences against laws with respect of any of the matters in this List.
38. Enquiries and statistics for the purpose of any of the matters in this List.
39. Land revenue, including the assessment and collection of revenue, the maintenance of land records, survey for revenue purposes and records of rights, and alienation of revenue.
40. Duties of excise on the following goods manufactured or produced in the Province and countervailing duties at the same or lower rates on similar goods manufactured or produced elsewhere in India:
  - (a) Alcoholic liquors for human consumption;
  - (b) Opium, Indian hemp and other narcotic drugs and narcotics; non-narcotic drugs;
  - (c) Medicinal and toilet preparations containing alcohol or any substance included in sub-paragraph (b) of this entry.
41. Taxes on agricultural income.
42. Taxes on lands and buildings, hearths and windows.
43. Duties in respect of succession to agricultural land.
44. Taxes on mineral rights, subject to any limitations imposed by any Act of the Federal Legislature relating to mineral development.
45. Capitation taxes.
46. Taxes on professions, trades, callings and employments.
47. Taxes on animals and boats.
48. Taxes on the sale of goods and on advertisements.
49. Cesses on the entry of goods into a local area for consumption, use or sale therein.
50. Taxes on luxuries, including taxes on entertainments, amusements, betting and gambling.
51. The rates of stamp duty in respect of documents other than those specified in the provisions of List I with regard to rates of stamp duty.
52. Dues on passengers and goods carried on inland waterways.
53. Tolls.
54. Fees in respect of any of the matters in this List, but not including fees taken in any Court.

*List III. Concurrent Legislative List*

## PART I

1. Criminal law, including all matters included in the Indian Penal Code at the date of the passing of this Act, but excluding offences against laws with respect to any of the matters specified in List I or List II and excluding the use of His Majesty's naval, military and air forces in aid of the civil power.
2. Criminal Procedure, including all matters included in the Code of Criminal Procedure at the date of the passing of this Act.
3. Removal of prisoners and accused persons from one unit to another unit.
4. Civil Procedure, including the Law of Limitation and all matters included in the Code of Civil Procedure at the date of the passing of this Act; the recovery in a Governor's Province or a Chief Commissioner's Province of claims in respect of taxes and other public demands, including arrears of land revenue and sums recoverable as such, arising outside that Province.
5. Evidence and oaths; recognition of laws, public acts and records and judicial proceedings.
6. Marriage and divorce; infants and minors; adoption.
7. Wills, intestacy, and succession, save as regards agricultural land.
8. Transfer of property other than agricultural land; registration of deeds and documents.
9. Trusts and Trustees.
10. Contracts, including partnership, agency, contracts of marriage, and other special forms of contract, but not including contracts relating to agricultural land.
11. Arbitration.
12. Bankruptcy and insolvency; administrators-general and official trustees.
13. Stamp duties other than duties or fees collected by means of judicial stamps, but not including rates of stamp duty.
14. Actionable wrongs, save in so far as included in laws with respect to any of the matters specified in List I or List II.
15. Jurisdiction and powers of all courts, except the Federal Court, with respect to any of the matters in this List.
16. Legal, medical and other professions.
17. Newspapers, books and printing presses.
18. Lunacy and mental deficiency, including places for the reception or treatment of lunatics and mental deficient.
19. Poisons and dangerous drugs.
20. Mechanically propelled vehicles.
21. Boilers.
22. Prevention of cruelty to animals.
23. European vagrancy; criminal tribes.
24. Enquiries and statistics for the purpose of any of the matters in this part of this List.
25. Fees in respect of any of the matters in this part of this List, but not including fees taken in any Court.

## PART II

26. Factories.
27. Welfare of labour; conditions of labour; provident funds; employers' liability and workmen's compensation; health insurance, including invalidity pensions; old age pensions.
28. Unemployment insurance.
29. Trade unions; industrial and labour disputes.
30. The prevention of the extension from one unit to another of infectious or contagious diseases or pests affecting men, animals or plants.

31. Electricity.
32. Shipping and navigation on inland waterways as regards mechanically propelled vessels, and the rule of the road on such waterways; carriage of passengers and goods on inland waterways.
33. The sanctioning of cinematograph films for exhibition.
34. Persons subjected to preventive detention under Federal authority.
35. Enquiries and statistics for the purpose of any of the matters in this part of this List.
36. Fees in respect of any of the matters in this part of this List, but not including fees taken in any Court.

### Draft of Royal Instructions to the Governor-General<sup>1</sup>

*(This is a draft of the Instrument of Instructions proposed to be issued to the Governor-General which was laid before the Houses of Parliament in February 1934 when the Government of India Bill was under Discussion. The Federation contemplated by the Government of India Act, 1935, not having been constituted, no Instrument in this form has actually been issued. The provisions of the Instrument are, however, thought to be of sufficient interest to warrant inclusion here.)*

#### *B. In Regard to the Executive Authority of the Federation*

VII. Our Governor-General shall do all that in him lies to maintain standards of good administration; to encourage religious toleration, co-operation and goodwill among all classes and creeds; and to promote all measures making for moral, social and economic welfare.

X. It is Our will and pleasure that in the discharge of his special responsibility for safeguarding the financial stability and credit of the Federation Our Governor-General shall in particular make it his duty to see that a budgetary or borrowing policy is not pursued which would, in his judgment, seriously prejudice the credit of India in the money markets of the world, or affect the capacity of the Federation duly to discharge its financial obligations.

XI. Our Governor-General shall interpret his special responsibility for the safeguarding of the legitimate interests of minorities as requiring him to secure, in general, that those racial or religious communities for the members of which special representation is accorded in the Federal Legislature, and those classes who, whether on account of the smallness of their number or their lack of educational or material advantages or from any other cause, cannot as yet fully rely for their welfare on joint political action in the Federal Legislature, shall not suffer, or have reasonable cause to fear, neglect or oppression. But he shall not regard as entitled to his protection any body of persons by reason only that they share a view on a particular question which has not found favour with the majority.

XIII. The special responsibility of Our Governor-General for securing in the sphere of executive action any of the purposes which the provisions of chapter III of part V of the said Act are designed to secure in relation to legislation shall be construed by him as requiring him to differ from his Ministers if in his individual judgment their advice would have effects of the kind which it is the purpose of the said chapter to prevent, even though the advice so tendered to him is not in conflict with any specific provision of the said Act.

<sup>1</sup> Text from *British Parliamentary Papers*, Vol. XVI, 1934-1935. *Accounts and Papers*, Vol. 5 (Cmd. 4805, 1935), pp. 1105-1120, *The Government of India Bill, Instrument of Instructions to the Governor-General and Governors*.

XIV. In the discharge of his special responsibility for the prevention of measures which would subject goods of United Kingdom origin imported into India to discriminatory or penal treatment, Our Governor-General shall avoid action which would affect the competence of his Government and of the Federal Legislature to develop their own fiscal and economic policy, or would restrict their freedom to negotiate trade agreements whether with the United Kingdom or with other countries for the securing of mutual tariff concessions; and he should intervene in tariff policy or in the negotiation of tariff agreements only if, in his opinion, the main intention of the policy contemplated is, by trade restrictions, to injure the interests of the United Kingdom rather than to further the economic interests of India. And we require and charge him to regard the discriminatory or penal treatment covered by this special responsibility as including both direct discrimination (whether by means of differential tariff rates or by means of differential restrictions on imports) and indirect discrimination by means of differential treatment of various types of products: and Our Governor-General's special responsibility extends to preventing the imposition of prohibitory tariffs or restrictions, if he is satisfied that such measures are proposed with the aforesaid intention. It also extends, subject to the aforesaid intention, to measures which, though not discriminatory or penal in form, would be so in fact.

At the same time in interpreting the special responsibility to which this paragraph relates Our Governor-General shall bear always in mind the partnership between India and the United Kingdom within Our Empire which has so long subsisted and the mutual obligations which arise therefrom.

XV. Our Governor-General shall construe his special responsibility for the protection of the rights of any Indian State as requiring him to see that no action shall be taken by his Ministers, and no bill of the Federal Legislature shall become law, which would imperil the economic life of any State, or affect prejudicially any right of any State heretofore or hereafter recognised, whether derived from treaty, grant, usage, sufferance or otherwise, not being a right appertaining to a matter in respect to which, in virtue of the Ruler's Instrument of Accession, the Federal Legislature may make laws for his State and his subjects.

#### *C. In Regard to Relations between the Federation, Provinces and Federated States*

XXI. It is Our desire that Our Governor-General shall by all reasonable means encourage consultation with a view to common action between the Federation, Provinces and Federated States. It is further Our will and pleasure that Our Governor-General shall endeavour to secure the co-operation of the Governments of Provinces and Federated States in the maintenance of such Federal agencies and institutions for research as may serve to assist the conduct by Provincial Governments and Federated States of their own affairs.

XXIII. Before granting his previous sanction to the introduction of a bill into the Federal Legislature imposing a Federal surcharge on taxes on income, Our Governor-General shall satisfy himself that the results of all practicable economies and of all practicable measures for increasing the yield accruing to the Federation from other sources of taxation within the powers of the Federal Legislature would be inadequate to balance Federal receipts and expenditure on revenue account; and among the aforesaid measures shall be included the exercise of any powers vested in him in relation to the amount of the sum retained by the Federation out of moneys assigned to the Provinces from taxes on income.

XXIV. Our Governor-General, in determining whether the Federation would or would not be justified in refusing to make a loan to a Province, or to give a guarantee in respect of a loan to be raised by a Province, or in imposing any conditions in relation to such loan or guarantee, shall be guided by the general

policy of the Federation for the time being as to the extent to which it is desirable that borrowings on behalf of the Provinces should be undertaken by the Federation; but such general policy shall not in any event be deemed to prevail against the grant by the Federation of a loan to a Province or a guarantee in respect of a loan to be raised by that Province, if in the opinion of Our Governor-General a temporary financial emergency of a grave character has arisen in a Province, in which refusal by the Federation of such a grant or guarantee would leave the Province with no satisfactory means of meeting such temporary emergency.

XXV. Before granting his previous sanction to the introduction into the Federal Legislature of any bill or amendment wherein it is proposed to authorise the Federal Government to give directions to a Province as to the carrying into execution in that Province of any Act of the Federal Legislature relating to a matter specified in part II of the Concurrent Legislative List appended to the said Act, it is Our will and pleasure that Our Governor-General should take care to see that the Governments of the Provinces which would be affected by any such measure have been duly consulted upon the proposal, and upon any other proposals which may be contained in any such measure for the imposition of expenditure upon the revenues of the Provinces.

XXVI. In considering whether he shall give his assent to any Provincial law relating to a matter enumerated in the Concurrent Legislative List, which has been reserved for his consideration on the ground that it contains provisions repugnant to the provisions of a Federal law, Our Governor-General, while giving full consideration to the proposals of the Provincial Legislature, shall have due regard to the importance of preserving substantially the broad principles of those Codes of law through which uniformity of legislation has hitherto been secured.

### Instrument of Instructions to Governors of Indian Provinces<sup>1</sup>

IX. Our Governor shall interpret his special responsibility for the safeguarding of the legitimate interests of minorities as requiring him to secure, in general, that those racial or religious communities for the members of which special representation is accorded in the Legislature, and those classes of the people committed to his charge who, whether on account of the smallness of their number or their primitive condition or their lack of educational or material advantages or from any other cause, cannot as yet fully rely for their welfare upon joint political action in the Legislature, shall not suffer, or have reasonable cause to fear neglect or oppression. But he shall not regard as entitled to his protection any body of persons by reason only that they share a view on a particular question which has not found favour with the majority.

Further, Our Governor shall interpret the said special responsibility as requiring him to secure a due proportion of appointments in Our Services to the several communities, and, so far as there may be in his Province at the date of the issue of these Our Instructions an accepted policy in this regard, he shall be guided thereby, unless he is fully satisfied that modification of that policy is essential in the interests of the communities affected or of the welfare of the public.

XI. The special responsibility of Our Governor for securing in the sphere of executive action any of the purposes which the provisions of chapter III of part V of the Act are designed to secure in relation to legislation shall be construed by him as requiring him to differ from his Ministers if in his individual judgment their advice would have effects of the kind which it is the purpose of the said

<sup>1</sup>Text from Draft of Instrument of Instructions which it is proposed to recommend His Majesty to issue to the Governors of Indian Provinces. Presented to Parliament pursuant to the Government of India Act, 1935, section 53, *British Parliamentary Papers*, Vol. XX, 1936-1937, *Accounts and Papers*, Vol. 5, pp. 1031-1038.

chapter to prevent, even though the advice so tendered to him is not in conflict with any specific provision of the Act.

XII. Our Governor shall construe his special responsibility for the protection of the rights of any Indian State as requiring him to see that no action shall be taken by his Ministers which would imperil the economic life of any State, or affect prejudicially any right of any State heretofore or hereafter recognised, whether derived from treaty, grant, usage, sufferance or otherwise; and he shall refer to Our Governor-General any questions which may arise as to the existence of any such right.<sup>1</sup>

XVII. Without prejudice to the generality of his powers as to reservation of bills, our Governor shall not assent in Our name to, but shall reserve for the consideration of Our Governor-General, any bill of any of the classes herein specified, that is to say:

- (c) Any bill regarding which he feels doubt whether it does, or does not, offend against the purposes of chapter III of part V or section 299 of the Act.

XX. And generally Our Governor shall do all that in him lies to maintain standards of good administration; to promote all measures making for moral, social and economic welfare and tending to fit all classes of the population to take their due share in the public life and government of the Province; and to secure amongst all classes and creeds co-operation, good will and mutual respect for religious beliefs and sentiments; and he shall further have regard to this Instruction in the exercise of the powers by law conferred upon him in relation to matters whether of legislation or of executive government.

## Draft Declaration of Policy by His Majesty's Government<sup>2</sup>

*29 March 1942*

His Majesty's Government, having considered the anxieties expressed in this country and in India as to the fulfilment of the promises made in regard to the future of India, have decided to lay down in precise and clear terms the steps which they propose shall be taken for the earliest possible realisation of self government in India. The object is the creation of a new Indian Union which shall constitute a Dominion, associated with the United Kingdom and the other Dominions by a common allegiance to the Crown, but equal to them in every respect, in no way subordinate in any aspect of its domestic or external affairs.

His Majesty's Government therefore make the following declaration:

- I. Immediately upon the cessation of hostilities steps shall be taken to set up in India, in the manner described hereafter, an elected body charged with the task of framing a new Constitution for India.

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<sup>1</sup> The Instrument of Instructions to the Governor of the Central Provinces and Berar also includes the following paragraph:

XIIa. In pursuance of the Agreement made between Us and His Exalted Highness the Nizam of Hyderabad as contemplated in part III of the Act, Our Governor shall interpret his special responsibility for the protection of the rights of any Indian State as also requiring him in the administration of Berar to have due regard to the commercial and economic interests of the State of Hyderabad.

Further, if Our Governor is at any time of opinion that the policy hitherto in force affords to him no satisfactory guidance in the interpretation of his special responsibility for securing that a reasonable share of the revenues of his Province is expended in or for the benefit of Berar he shall, if he deems it expedient, fortify himself with advice from a body of experienced and unbiased persons whom he may appoint for the purpose of recommending what changes in policy would be suitable and equitable.

<sup>2</sup> Text from R. COUPLAND: *The Cripps Mission*, Oxford, 1942.

- II. Provision shall be made, as set out below, for the participation of the Indian States in the Constitution-making body.
- III. His Majesty's Government undertake to accept and implement forthwith the Constitution so framed, subject only to:
  - (a) The right of any Province of British India that is not prepared to accept the new Constitution to retain its present constitutional position, provision being made for its subsequent accession if it so decides. With such non-acceding Provinces, should they so desire, His Majesty's Government will be prepared to agree upon a new Constitution giving them the same full status as the Indian Union and arrived at by a procedure analogous to that here laid down.
  - (b) The signing of a treaty which shall be negotiated between His Majesty's Government and the Constitution-making body. This treaty will cover all necessary matters arising out of the complete transfer of responsibility from British to Indian hands. It will make provision in accordance with the undertakings given by His Majesty's Government for the protection of racial and religious minorities, but will not impose any restriction on the power of the Indian Union to decide in the future its relationship to the other member States of the British Commonwealth.

Whether or not an Indian State elects to adhere to the Constitution it will be necessary to negotiate a revision of its treaty arrangements so far as this may be required in the new situation.

- IV. The Constitution-making body shall be composed as follows, unless the leaders of Indian opinion in the principal communities agree upon some other form before the end of hostilities:

Immediately upon the result being known of the Provincial elections, which will be necessary at the end of hostilities, the entire membership of the Lower Houses of the Provincial Legislatures shall, as a single electoral college, proceed to the election of the Constitution-making body by the system of Proportional Representation. This new body shall be in number about one-tenth of the number of the electoral college. Indian States shall be invited to appoint representatives in the same proportion to their total population as in the case of the representatives of British India as a whole and with the same powers as the British Indian members.

- V. During the critical period which now faces India and until the new Constitution can be framed, His Majesty's Government inevitably bear the responsibility for and retain control and direction of the defence of India, as part of their world war effort, but the task of organising to the full the military, moral and material resources of India must be the responsibility of the Government of India with the co-operation of the peoples of India.

His Majesty's Government desire and invite the immediate and effective participation of the leaders of the principal sections of the Indian people in the counsels of their country, of the Commonwealth, and of the United Nations. Thus they will be enabled to give their active and constructive help in the discharge of a task which is vital and essential for the future freedom of India.

Arrangements for a Tripartite Labour Conference 1942.  
Resolutions Adopted at Conference of Representatives of the  
Central, Provincial and Indian States' Governments  
and of Representative Employers and Workers<sup>1</sup>

*New Delhi, 7 August 1942*

RESOLUTION ON THE CONSTITUTION OF THE PLENARY CONFERENCE

1. This Conference of the representatives of the Central and Provincial Governments in British India and of the Indian States and the Chamber of Princes, and of representatives of workers and employers in British India, being convinced that a collaborative machinery composed of the representatives of Governments, employers and workers in India should be established forthwith for the consideration of all questions relating to the conditions of labour, resolves that a Plenary Conference shall be constituted as follows:

- (1) The Hon'ble the Labour Member of the Government of India, Chairman.
- (2) 3 representatives of the Government of India including 1 representative to represent Minor Administrations.
- (3) 11 representatives of Provinces.
- (4) 6 representatives of the industrially important States.
- (5) 2 representatives of the Chamber of Princes to represent other States.
- (6) 11 representatives of employees of whom 4 will be nominated by Government in agreement with the All-India Trade Union Congress, 4 will be nominated by Government in agreement with the Indian Federation of Labour and 3 will be nominated by Government as representatives of other employees' interests.
- (7) 11 representatives of employers of whom 4 will be nominated by Government in agreement with the Employers' Federation of India, 4 will be nominated by Government in agreement with the All-India Organisation of Industrial Employers and 3 will be nominated by Government to represent other classes of employers.

2. The Conference shall meet at least once a year, the first meeting being held in Delhi and subsequent meetings held at such places as may be decided upon from time to time.

3. That the Plenary Conference shall advise the Government of India on any matters referred to it for advice taking into account suggestions made by Provincial Governments, States and the Chamber of Princes and representative organisations of employers and workers recognised for the purposes of the Conference.

RESOLUTION CONCERNING THE CONSTITUTION OF THE  
STANDING ADVISORY COMMITTEE

1. The Conference further resolves that a Standing Labour Committee shall be constituted composed as follows:

- (1) The Hon'ble the Labour Member of the Government of India, Chairman.
- (2) 1 representative of the Government of India.

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<sup>1</sup> Texts from *International Labour Review*, Vol. XLVII, No. 1, Jan. 1943, pp. 13-16.



- (3) 1 representative each of the Governments of Bengal, Bombay and the United Provinces.
- (4) (i) 1 representative to represent the Provinces of Madras and the Central Provinces and Berar.  
(ii) 1 representative to represent the Provinces of Assam, Bihar and Orissa.  
(iii) 1 representative to represent the Provinces of the Punjab, Sind and the North West Frontier Province.
- (5) 3 representatives of Indian States, including one representing the Chamber of Princes.
- (6) 5 representatives of employers.
- (7) 5 representatives of employees.

2. That the Standing Labour Committee shall consider and examine such questions as may be referred to it by the Plenary Conference or by the Central Government taking also into account suggestions made by Provincial Governments, States, the Chamber of Princes and representative organisations of workers and employers.

3. That the Standing Labour Committee shall meet as often as it may be convened by the Central Government for the consideration of questions that may be before it.

4. That the Committee shall be competent:

- (a) To advise Government on any matters referred to it by Government provided that copies of any such advice shall be forwarded to all members of the Plenary Conference.
- (b) To report to the Plenary Conference upon any matters referred to it by that Conference.

## ANNEX

### All Parties Conference, 1928

#### *Report of the Committee Appointed by the Conference to Determine the Principles of the Constitution for India<sup>1</sup>*

##### EXTRACT FROM RECOMMENDATIONS

##### *Fundamental Rights*

4. (i) All powers of Government and all authority, legislative, executive and judicial, are derived from the people and the same shall be exercised in the Commonwealth of India through the Organisations established by or under, and in due process of this Constitution.

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<sup>1</sup> The original recommendations of the Committee are at pp. 100-124 of the *Report* which was signed by Motilal Nehru (Chairman), S. Ali Imam, Tej Bahadur Sapru, M. S. Aney, Mangal Singh, Shaaib Qureshi, Subhas Chandra Bose, G. R. Pradhan. The text given here is that as amended to give effect to the resolutions adopted at the All Parties Conference at Lucknow, 28-31 August 1928, and is taken from the *Supplementary Report* of the Committee, pp. 32-34.

The following Declaration of Fundamental Rights adopted by the Indian National Congress in 1933 is also of interest:

The Congress is of opinion that to enable the masses to appreciate what 'Swaraj', as conceived by the Congress, will mean to them, it is desirable to state the position of the Congress in a manner easily understood by them. In order to end the exploitation of the masses, political freedom must include real economic freedom of the starving millions. The Congress, therefore, declares that any constitution which may be agreed

(ii) No person shall be deprived of his liberty, nor shall his dwelling or property be entered, sequestered or confiscated, save in accordance with law. All titles to private and personal property lawfully acquired and enjoyed at the establishment of the Commonwealth are hereby guaranteed.

(iii) Freedom of conscience and the free profession and practice of religion are, subject to public order or morality, hereby guaranteed to every person.

to on its behalf should provide, or enable the Swaraj Government to provide for the following:

#### *Fundamental Rights and Duties*

(1) (i) Every citizen of India has the right of free expression of opinion, the right of free association and combination, and the right to assemble peacefully and without arms, for purposes not opposed to law or morality.

(ii) Every citizen shall enjoy freedom of conscience and the right freely to profess and practise his religion, subject to public order and morality.

(iii) The culture, language and script of the minorities and of the different linguistic areas shall be protected.

(iv) All citizens are equal before the law, irrespective of religion, caste, creed or sex.

(v) No disability attaches to any citizen, by reason of his or her religion, caste, creed, or sex, in regard to public employment, office of power or honour, and in the exercise of any trade or calling.

(vi) All citizens have equal rights and duties in regard to wells, tanks, roads, schools and places of public resort, maintained out of State or local funds, or dedicated by private persons for the use of the general public.

(vii) Every citizen has the right to keep and bear arms, in accordance with regulations and reservations made in that behalf.

(viii) No person shall be deprived of his liberty nor shall his dwelling or property be entered, sequestered, or confiscated, save in accordance with law.

(ix) The State shall observe neutrality in regard to all religions.

(x) The franchise shall be on the basis of universal adult suffrage.

(xi) The State shall provide for free and compulsory primary education.

(xii) The State shall confer no titles.

(xiii) There shall be no capital punishment.

(xiv) Every citizen is free to move throughout India and to stay and settle in any part thereof, to acquire property and to follow any trade or calling, and to be treated equally with regard to legal prosecution or protection in all parts of India.

#### *Labour*

(2) (a) The organisation of economic life must conform to the principle of justice, to the end that it may secure a decent standard of living.

(b) The State shall safeguard the interests of industrial workers and shall secure for them, by suitable legislation and in other ways, a living wage, healthy conditions of work, limited hours of labour, suitable machinery for the settlement of disputes between employers and workers, and protection against the economic consequences of old age, sickness, and unemployment.

(3) Labour to be freed from serfdom and conditions bordering on serfdom.

(4) Protection of women workers, and especially, adequate provision for leave during maternity period.

(5) Children of school-going age shall not be employed in mines and factories.

(6) Peasants and workers shall have the right to form unions to protect their interests.

#### *Taxation and Expenditure*

(7) The system of land tenure and revenue and rent shall be reformed and an equitable adjustment made of the burden on agricultural land, immediately giving relief to the smaller peasantry, by a substantial reduction of agricultural rent and revenue now paid by them, and in case of uneconomic holdings, exempting them from rent so long as necessary, with such relief as may be just and necessary to holders of small estates affected by such exemption or reduction in rent, and to the same end, imposing a graded tax on net incomes from land above a reasonable minimum.

(8) Death duties on a graduated scale shall be levied on property above a fixed minimum.

(9) There shall be a drastic reduction of military expenditure so as to bring it down to at least one-half of the present scale.

(10) Expenditure and salaries in civil departments shall be largely reduced. No servant of the State, other than specially employed experts and the like, shall be paid above a certain fixed figure, which should not ordinarily exceed Rs. 500 per month.

(11) No duty shall be levied on salt manufactured in India.

(iv) The right of free expression of opinion, as well as the right to assemble peaceably and without arms, and to form associations or unions, is hereby guaranteed for purposes not opposed to public order or morality.

(v) All citizens in the Commonwealth of India have the right to free elementary education without any distinction of code or creed in the matter of admission into any educational institutions, maintained or aided by the State, and such right shall be enforceable as soon as due arrangements shall have been made by the competent authority.

Provided that adequate provision shall be made by the State for imparting public instruction in primary schools to the children of members of minorities of considerable strength in the population through the medium of their own language and in such script as is in vogue among them.

*Explanation.* This provision will not prevent the State from making the teaching of the language of the Commonwealth obligatory in the said schools.

(vi) All citizens are equal before the law and possess equal civic rights.

(vii) There shall be no penal law, whether substantive or procedural of a discriminative nature.

(viii) No person shall be punished for any act which was not punishable under the law at the time it was committed.

(ix) No corporal punishment or other punishment involving torture of any kind shall be lawful.

(x) Every citizen shall have the right to a writ of *habeas corpus*. Such right may be suspended in the case of war or rebellion by an Act of the Central Legislature or, if the Legislature is not in session, by the Governor-General in Council, and in such case he shall report the suspension to the Legislature at the earliest opportunity for such action as it may deem fit.

(xi) There shall be no State religion for the Commonwealth of India or for any Province in the Commonwealth, nor shall the State either directly or indirectly endow any religion or give any preference or impose any disability on account of religious belief or religious status.

(xii) No person attending any school receiving State and or other public money shall be compelled to attend the religious instruction that may be given in the school.

(xiii) No person shall by reason of his religion, caste or creed be prejudiced in any way

#### *Economic and Social Programme*

(12) The State shall protect indigenous cloth; and for this purpose pursue the policy of exclusion of foreign cloth and foreign yarn from the country and adopt such other measures as may be found necessary. The State shall also protect other indigenous industries, when necessary, against foreign competition.

(13) Intoxicating drinks and drugs shall be totally prohibited, except for medicinal purposes.

(14) Currency and exchange shall be regulated in the national interest.

(15) The State shall own or control key industries and services, mineral resources, railways, waterways, shipping and other means of public transport.

(16) Relief of agricultural indebtedness and control of usury — direct and indirect.

(17) The State shall provide for the military training of citizens so as to organise a means of national defence apart from the regular military forces. (*Indian National Congress, 1933-34, Allahabad, 66-8, 119-22, 175.*)

The Indian Central Committee appointed by the Indian Legislatures in connection with the Indian Statutory Commission which reported in 1930 proposed the inclusion in the Government of India Act of a declaration of fundamental rights in the following terms:

"No subject of the King Emperor shall by reason only of his religion, place of birth, descent, colour or caste, or any of them, be disabled from or prejudiced for the purpose of holding or being recruited for any office or post paid out of public funds; or of adopting freely any profession, trade or calling, or engaging in any industry; or acquiring any right, title or industry in any property; or finding admission in any educational institution supported out of funds in the hands of the Central or Provincial Government or a local body; or entering or using public roads, public wells and other places whatsoever so maintained; and all orders and enactments placing any such disability now in force are null and void:

"Provided that this provision shall not affect the Punjab Land Alienation Act or any similar Act for the protection of agriculturists in India." (*Report of the Indian Central Committee, 1928-1929, Cmd. 3451 of 1929.*)

in regard to public employment, office of power or honour and the exercise of any trade or calling.

(xiv) All citizens have an equal right of access to, and use of, public roads, public wells and other places of public resort.

(xv) Freedom of combination and association for the maintenance and improvement of labour and economic conditions is guaranteed to everyone and of all occupations. All agreements and measures tending to restrict or obstruct such freedom are illegal.

(xvi) No breach of contract of service or abetment thereof shall be made a criminal offence.

(xvii) Parliament shall make suitable laws for the maintenance of health and fitness for work of all citizens, securing of a living wage for every worker, the protection of motherhood, welfare of children, and the economic consequences of old age, infirmity and unemployment and Parliament shall also make laws to ensure fair rent and fixity and permanence of tenure to agricultural tenants.

(xviii) Every citizen shall have the right to keep and bear arms in accordance with regulations made in that behalf.

(xix) Men and women shall have equal rights as citizens.

*Note.* Notwithstanding anything to the contrary in article (iv) the Sikhs are entitled to carry kripans.

## STATES OF INDIA

*The States of India are too numerous to permit of the inclusion of all the relevant material; extracts are therefore given for the larger States and for a few smaller States selected either because they are typical or because the relevant provisions are of special interest. The States are listed in alphabetical order and are not grouped according to the nature of their relations with the Government of India as is customary in Indian publications.*

## Aundh

### State Constitution Act I of 1939<sup>1</sup>

2. Subject to the principles of non-violence and public morality, this Constitution guarantees to every citizen of Aundh, freedom of person, freedom of speech, liberty of the press, freedom of assembly and discussion, freedom of worship, freedom from all political disabilities arising from birth, sex, caste, religion or colour or material standing, complete equality in the eyes of the law, cheap and speedy justice, universal free compulsory basic education, universal and equal suffrage for all literate adults, universal and equal right to work at a minimum living wage, all these as defined by the law of the State which may be passed from time to time.

4. Every village and town in the State shall elect a Panchayat consisting of five regular and two reserve members elected for 3 years. . .

5. (c) It shall be the duty of the Panchayat, within the limits of the funds at its disposal and subject to the control of the Taluka Council and the Government to attend to all matters relating to the education, welfare, and prosperity of the village, especially justice, water supply, sanitation, construction and main-

<sup>1</sup> The significance of this Constitution is that it has been regarded as a model State constitution by members of the Indian National Congress.

tenance of roads, drains, bunds and bridges, maintenance of public buildings, grazing lands, etc., lighting of the village, control of fairs, bazaars etc., basic education in co-operation with the Government, unemployment relief scheme through spinning etc., maintenance of building, stock and protection and improvement of cattle and any other activity which is likely to promote the health, safety, education, comfort, convenience or the social and economic well-being of the villagers.

9. (b) The Legislative Assembly shall be the supreme authority in the State and will pass such laws and rules as are necessary for the good government of the State. It will exercise supreme control over the revenue of the State.

16. The executive authority of the State shall be exercised, on behalf of the State Legislature by the Government, shall consist of a Prime Minister and not more than two Ministers who shall all be nominated by Shrimant Rajasaheb from amongst the members of the Legislative Assembly. The Government shall on all matters be responsible to the Legislative Assembly and shall vacate its office on a vote of non-confidence by the Legislative Assembly.

17. The Government shall in each financial year lay before the Legislative Assembly the yearly estimate of receipts and expenditure which shall provide for:

- (a) One-half of the revenue of the State for the work of the Government including the privy purse and the political pensions.
- (b) One-half of the revenue for the Panchayats to be distributed amongst the Taluka Councils, proportionately to the revenues of the respective Talukas.

18. The amount of expenditure specified in clause (b) of section 17 shall be votable by the Legislative Assembly but not the amount specified in clause (a).

20. The Justice in the State shall be cheap and speedy. . . Panchayat Justice will be free of charge. Legal advice and defence will be provided by the State free of charge both in civil and criminal cases subject to the rules made by the High Court.

22. As soon after the commencement of this Act as expedient, the Government shall provide for universal free, compulsory and as far as possible, self-supporting basic education and higher education will be provided by the State only to the extent necessary to prepare candidates for wider opportunities of service of the people of Aundh. In addition the State will provide for the liquidation of adult illiteracy, by creating facilities for every adult male and female in the State to prepare themselves to pass their literacy test enabling them to be voters within one year from the date of this Act.

24. Shrimant Rajasaheb is the first servant and the bearer of conscience of the people of Aundh and in addition to the powers hereinafter specified shall also exercise the following powers:

(d) Shrimant Rajasaheb may at any time suspend the Government for manifest mal-administration and call session of the Legislative Assembly within not more than one month from the date of suspension.

26. (a) The Government will frame rules implementing and elucidating this Constitution, especially with regard to Panchayats, Taluka Councils, transactions of business by Governments, judiciary, audit, education, unemployment relief and for the purpose of safeguarding the interests of civil servants and for all matters not provided for in the Constitution.

(b) Such rules and amendments thereto will be passed by the Legislative Assembly which will also frame rules for its own working.

## Baroda

### The Government of Baroda Act, 1 February 1940

Whereas in My message dated the 20th February 1939 I announced My sanction to a scheme of constitutional advance in the State as a further step in the policy of associating the people of the State with the Administration, I hereby ordain as follows:

5. (c) The Dewan and the other members of the Executive Council shall be chosen and appointed by His Highness. One of the members of the Executive Council shall be chosen from among the non-official members of the Dhara Sabha. The Dewan and the other members of the Executive Council shall be responsible to His Highness and shall hold office during his pleasure.
9. The Dhara Sabha shall be composed of:
  - (a) Ex-officio members;
  - (b) Members nominated by His Highness; and
  - (c) Elected members.
16. His Highness will appoint at least two parliamentary secretaries from amongst the non-official members of the Dhara Sabha. They will perform such duties in relation to the work on the Dhara Sabha falling to the Dewan or other members of the Executive Council as may be assigned to them from time to time.
17. There shall not be introduced into or moved in the Dhara Sabha any bill or amendment or motion or resolution or question:
  - (c) Which would affect the relations and treaties with other States or Governments;
  - (e) Which would regulate the borrowing of money, or the giving of any guarantee by the State, or amend the law with respect to any financial obligation undertaken by it. . .
18. There shall not be introduced into or moved in the Dhara Sabha without the previous sanction of His Highness any bill or amendment:
  - (a) Which would affect the public debt or revenue or taxes or which would create a charge on the Government revenue and taxes;
  - (b) Which would affect the religion or religious rights and usages of His Highness' subjects;
31. The estimates of expenditure embodied in the annual financial statement shall show separately:
  - (a) The sums required to meet expenditure described by this Act as expenditure charged upon the revenues of the State; and
  - (b) The sums required to meet other expenditure proposed to be met from the revenues of the State.
32. The following expenditure shall be the expenditure charged on the revenues of the State:
  - (a) Expenditure on matters reserved from the cognisance of the Dhara Sabha under section 17;

- (b) Salaries of the Dewan and the other members of the Executive Council;
- (c) Expenditure obligatory under any law;
- (d) Debt charges including interest on loans and sinking fund charges;
- (e) Expenditure which may be classed by His Highness or the Executive Council as political;
- (f) Pensions and gratuities granted by His Highness or with his sanction or under the rules sanctioned by His Highness or the Executive Council;
- (g) Contributions and grants of all nature, continued or sanctioned by His Highness;
- (h) Salaries of the judges of the High Court and of the members of the Huzur Nyaya Sabha;
- (i) Salaries of such other officers as His Highness may specify from time to time;
- (j) Any sums required to satisfy any judgment, decree or award of any court or arbitral tribunal;
- (k) Such other expenditure as His Highness may specify from time to time.

33. Any question whether any proposed expenditure falls within a class of expenditure charged on the revenues of the State shall be decided by the Dewan and such decision shall be final.

34. (a) So much of the estimates of expenditure as relates to the expenditure charged upon the revenues of the State shall not be submitted to the vote of the Dhara Sabha.

(b) So much of the said estimates as relates to the other expenditure shall be submitted to the Dhara Sabha in the form of demand for grants. The Dhara Sabha shall have power to assent or to refuse to assent to any demand, or to assent to any demand subject to a reduction of the amount specified therein:

Provided that any motion passed by the Dhara Sabha shall become effective only when accepted by His Highness.

35. His Highness shall have power in cases of emergency to authorise any expenditure as may in his opinion be necessary for the safety, tranquillity or efficient administration of the State.

### Extract from Government Order on the Delimitation of Constituencies and other Matters relating to the Enlarged Dhara Sabha

5. The Committee<sup>1</sup> have proposed representation of interests as a supplement to election by territorial constituencies. The interests recommended by the Committee are important in the life of the State and the Government agree that this is a useful principle and should be embodied in the Constitution, as thereby vital questions of economic reconstruction will be placed prominently before the members of the Dhara Sabha.

## The Dhara Sabha Electoral Rules

*1 February 1940*

### CHAPTER II. DIVISION OF CONSTITUENCIES AND ELIGIBILITY FOR ELECTION

3. The constituencies shall be general and special as described in part I and part II of Schedule I.

<sup>1</sup> Constitutional Reforms Committee for the enlarged Dhara Sabha.

*Schedule I*

## PART I. GENERAL CONSTITUENCIES

. . . . .

PART II. SPECIAL CONSTITUENCIES<sup>1</sup>

<i>Name of constituency</i>	<i>Extent of constituency</i>	<i>Number of members</i>
22. Co-operative societies Constituencies	Whole State	2
(a) All co-operative banking institutions financing co-operative societies.		
(b) All land-mortgage banks.		
(c) All agricultural banks registered under the Agricultural Banks Act.		
(d) All co-operative societies registered under the Co-operative Societies Act not included in clauses (a) (b) (c) above with a working capital of not less than Rs. 50,000 according to the last published annual report.		
23. (1) Inamdars.	"	1
(2) Holders of Thakarati Ankadia villages.	"	1
24. Commerce constituency.		1
	(a) Baroda and Navsari Districts	1
	(b) Mehsana and Amreli Districts	
25. Industry constituency.	(a) Baroda and Navsari Districts	1
	(b) Mehsana and Amreli Districts	1
26. Labour constituency.	Whole State	2

**Bikaner**

His Highness the Maharajah's Proclamation, Dated Lallgarh,  
Bikaner, the 23rd October 1941, to his Subjects on the  
Eve of his Departure on Active Service

. . . . .

On this supreme occasion when I am proceeding on active service with its incidental dangers, which as a Rathore and a Prince I have always been ready

<sup>1</sup> For the provisions regarding the preparation of electoral rolls for the special constituencies, see sections 27-47 of the rules; for the provisions regarding the nomination of candidates, see sections 61-75; for the provisions regarding the mode of election, see sections 106-114.



gladly to face in the performance of my duty, I need hardly assure my people that their welfare and happiness have ever been the guiding motives of my life; and from the beginning of my reign I have always looked upon the measure of their prosperity and contentment as the true index to my own success as a Ruler.

I have kept enshrined in my mind the Coronation Oath prescribed for Hindu Rulers which was administered according to the Hindu Religion to the first King to hold that dignity.

.....

This may be translated as below :

I shall at all times protect the country regarding it as God. Whatever law there is and whatever is dictated by *Neeti* and what is not opposed to the doctrine of justice, I shall do without hesitation. I shall not act according to my own caprices.

And Aitareya Brahman further enjoins :

If I play thee (the State) false, may I lose all the merit of my religious performances and gifts, of my good deeds, my place, my life, and even my progeny.

To achieve this ideal, which I had set before myself and which I conceived as the true Raj Dharma which our Sacred Texts teach us, I have kept unswervingly before me certain fundamental principles. About these I have on different occasions made public announcements and have assured my subjects in the most solemn manner of my resolute determination to adhere to them, not only as the general ideal to be realised, but as most important policies which I have been endeavouring in all earnestness to work out in practice. And I am thankful to say that I see evidence all round me that they have been principles that have made for the well-being and contentment of my people and the success of my administration.

All such previous assurances given at various times and rights secured to my beloved subjects I am to-day pleased to confirm unequivocally and to state in the clearest possible terms that they are and shall be inviolate and inviolable and shall remain sacred and equally binding not only on me but also on my heirs and successors and they shall be scrupulously honoured and respected for all time. I wish to impress on my people in all earnestness that for the future they should have no misgivings in their mind in this respect and that their rights will never be curtailed.

Those principles, which as I have already said have long been declared by our Sacred Texts to be the essentials of Raj Dharma, are the ensurance of :

- (1) Reign of Law, including certainty of Law; and the recognition of the equality of all the subjects of the State, high or low, before the Law;
- (2) Security and protection of life and property and of rights and individual liberty;
- (3) Independence of a competent and trained judiciary and the provision of adequate machinery for the adjustment of disputes between individuals and between individuals and the State;
- (4) Financial credit and stability;
- (5) Efficiency and continuity of administration;
- (6) Clear demarcation of State expenditure and the personal expenditure of the Ruler and a definite fixed percentage of the ordinary revenues of the State as the Civil List of the Ruler, sufficient to meet his personal expenses and to maintain his position and dignity;
- (7) Utilisation of as large a proportion as possible of the resources of the State for the benefit of the people and especially in what are called nation-building activities and beneficent departments;
- (8) Beneficent rule in the interests of the general well-being and contentment of the subjects of the State and the increasing association, as

circumstances and local conditions permit, of the people with the Government through the Legislative Assembly, local boards, municipalities, and other elective institutions.

These 8 principles which constitute the firm groundwork of the administration of the State and the essentials of good government have stood the test of experience; and I am happy to announce in regard to each of them that there shall be no going back at any time on the part of myself for the rest of the span of life that is given to me to guide and conduct the affairs of this State or on the part of my successors in days to come.

In order that there may be no misapprehension as to what these principles may stand for, I shall indicate briefly what I and my Government mean in respect of each of them.

.....  
Secondly, I have tried to ensure that there is security of life and property throughout the length and breadth of the State. . .

I include in this also fair and equitable taxation so that, the Noble, the cultivator, the businessman and the trader are all left free from all doubts, uncertainties and apprehensions to enjoy their property, for it could not be considered security of property or even of life, if the State itself, through unjust laws or arbitrary acts, deprives people of their property and thereby also of their means of livelihood.

.....  
The maintenance of financial credit and stability is also a primary principle of good government. A balanced budget, a careful and proper husbanding of assets, a system of public finance which will inspire confidence, these alone can give to the State the necessary means for the pursuit of a consistently liberal and beneficent policy. This has received my special care and attention and I have no hesitation in assuring my subjects that in the days to come also this policy will not be departed from.

In this connection, I should like specially to say that in regard to any large-scale investments in the Bikaner State Savings Bank or in industrial concerns, whether they be by financiers and capitalists from outside or inside the State, which have been started, or may hereafter be started, with assurances from or concessions by the State, such assurances and concessions will be scrupulously honoured both in the letter and in the spirit. More especially, as in the case of the Bank of Bikaner, which I hope will soon be started as a public concern, undertakings which are based on public credit will be safeguarded from undue interference and the Government of the State will take every necessary action to protect the interests of the public.

An essential condition of sound financial credit is of course the prompt repayment of loans and the scrupulous honouring of State liabilities. Too much care can never be taken in this matter; and I am happy to feel that until now there has never been an occasion when the good name of Bikaner in financial transactions has been doubted. In future also such public loans for remunerative purposes and other liabilities, as the State may have contracted or may contract, will be honoured without fail and paid back with promptitude.

.....  
. . . A well defined and fixed Civil List with a clear and ascertainable dividing line between State expenditure and the personal expenditure of the Ruler is another of the essential conditions of good government at all times.

The separation of personal expenditure from the expenditure of the State is not only a wise policy, but a religious duty enjoined on Hindu Kings. . .

With the increasing revenues of the State I have now decided to reduce my Civil List from 10 per cent. and to fix it at 9 per cent. of the ordinary revenues of the State.

It has been my view always that it is most desirable and only just and right and proper in the case of all big States with large revenues that the Civil List should not only not exceed a fixed percentage but also should not exceed a fixed maximum, and that, when the revenues of the State yield that maximum sum on the basis of a reasonably fixed percentage, there must thereafter be no further increase in the Ruler's Civil List. I have accordingly decided and hereby give the solemn assurance that whatever the revenues of the State may amount to, the Civil List of the Ruler of Bikaner shall at no time exceed 20 lakhs of rupees per annum, even though the ordinary revenues of the State reach the figure of Rs.2 crores or more, which by the grace of God, it is hoped it will one day — and I hope before long — be the case.

The utilisation of all available resources for activities meant for the welfare of the people and the State is the inalienable duty of the Ruler. The expanding activities of the State in such matters as education, medical relief, sanitation, rural uplift, agriculture and in providing amenities of civilised life take up a considerable portion of the State revenue; and I am happy to be able to assure you that not only will these beneficent and nation-building activities continue undiminished, but, while discountenancing wasteful expenditure, no ruthless cuts in the State grants in regard particularly to these departments will be made merely for the purpose of saving or hoarding money, so that, even if circumstances may not permit of that in my lifetime, at least in the time of my successor Bikaner, instead of merely ranking amongst the progressive States in India, may be in the forefront of the most progressive States.

I also desire to give a solemn assurance that the policy . . . of the association of my beloved subjects with the Government of the State . . . will be considered an integral part of the Constitution of the Bikaner State and that as the days go on, a wise and progressive policy will continue to be followed and wherever that is possible the Constitution in this respect too will be made more liberal in keeping with modern requirements, and with due regard to the safety of the State and public tranquillity.

. . . . .  
To my Chiefs and Nobles I would repeat again what I have constantly assured them, *viz.*, that they will continue to be the Pillars of this State and the Ornaments of my Throne and it will be my constant endeavour, as it shall be of my successors also, to maintain them in the rights and privileges which are their due and to uphold their izzat and dignity and their proper and honoured position in the body politic of the State. . . . the Chiefs or Nobles need have no fear whatsoever that they will be unjustly deprived of their Jagirs or that their Jagirs will be arbitrarily taken away from them and transferred to someone else — so long as they continue to be loyal and fulfil the obligations which they owe to the Ruler and the State, and conform to the conditions clearly stipulated by the State in the terms of the grant of such Jagirs.

Such duties and obligations, which the Chiefs and Nobles and other Jagir holders owe to the Ruler and State, no less than to my subjects residing in their Jagirs, have for centuries been clearly inserted as essential conditions in the Mohar Chhap Chithis relating to the original grant of Jagirs as well as on the renewal of the Jagir at each succession. They are that Jagir holders:

- Shall not deviate from the path of loyalty;
- Shall not enter into any seditious conspiracies against the State;
- Shall not defy State authority;
- Shall not commit any oppression or excesses on the ryots;
- Shall keep their villages populated;
- Shall realise only reasonable rent; and
- Shall not permit robbers and thieves to settle in their Jagir areas; and should any enter them they shall cause them to be apprehended.

. . . . .

To the Seths and Sahukars and others of our great mercantile community I give the further special assurance that they will always receive full and sympathetic consideration at my hands and those of my successors and that in laying down economic and industrial policies the State will in every manner that is reasonable and possible give due weight to their views and protect their legitimate interests.

To the Zamindars and other members of our agricultural community — who are the backbone of the State — I solemnly reaffirm my firm and unalterable faith that in their welfare shall be the Ruler's happiness, in their prosperity his pride and in their loyalty his reward.

To the new colonists I again declare solemnly that, so long as they remain loyal to the State and its Ruler, they will enjoy all the rights and privileges of my other subjects and that everything will continue to be done to further their well-being and to ensure their prosperity .

.....  
While in the natural evolution of things there may be further elaboration and greater development of the essential principles to which I have alluded in this Proclamation — and although details of administration cannot be forecast and the problems which arise at any particular time can only be dealt with in the circumstances of that time — my subjects may rest assured that these principles will continue to be the firm foundation of the Government of the State for the future no less than for the present.

.....

## Cochin

### The Government of Cochin Act

17 June 1938

4. Subject to the provisions of this Act, the executive authority of the Cochin State is exercised by His Highness through the Diwan in relation to reserved subjects, and through the Minister appointed under this Act in relation to transferred subjects. . .

*Explanation.* In this Act the expression "transferred subjects" shall mean those subjects which under sub-section (1) of section 8 of this Act, have been transferred for being administered through the Minister appointed under this Act, and the expression "reserved subjects" shall mean all other subjects not so transferred.

5. (1) The Diwan of Cochin is appointed by His Highness and holds office for such period and subject to such terms and conditions, as His Highness may prescribe.

6. (1) The Minister is appointed by His Highness and holds office during His Highness' pleasure.

(2) The Minister who, for any period of six consecutive months, is not an elected member of the Legislative Council, shall, at the expiration of that period, cease to be Minister.

(4) In the administration of transferred subjects, His Highness is guided by the advice of the Minister, unless, after such consultation with the Diwan, as His Highness may think fit, His Highness sees cause to dissent from the Minister's opinion, in which case, His Highness may require action to be taken otherwise than in accordance with such advice.

8. His Highness, after such consultation with the Diwan as His Highness may think fit, may, by rules under this Act, provide:

- (1) For the transfer from time to time of one or more subjects for being administered through the Minister appointed under this Act;
- (2) For the allocation of revenues or moneys for the purpose of such administration; and
- (3) For the settlement of doubts arising as to whether any matter does or does not relate to a transferred subject, and for the treatment of matters which affect both a transferred subject and a reserved subject.

13. (1) The Legislative Council shall consist of the Diwan and fifty-eight members, of whom thirty-eight members shall be representatives elected, and the rest nominated by His Highness, in accordance with the rules made in that behalf.

24. (1) Subject to the provisions of this Act, the Cochin Legislature may make laws for the whole of the Cochin State or any part thereof, and for the subjects of His Highness wherever they may be.

(2) There shall not be introduced into or moved in the Legislative Council, any bill or amendment or motion or resolution or interpellation or other proceedings relating to or affecting the following matters:

- (c) Matters governed by treaties, conventions or agreements now in force, or hereafter to be made by His Highness with the Crown; . . .

25. There shall not be introduced into or moved in the Legislative Council without the previous sanction of His Highness any bill or amendment:

- (a) Affecting the public revenues of the State or by which any charge would be imposed on such revenues; or
- (b) Affecting the religion or religious rights and usages of any class of His Highness' subjects; or . . .

28. (1) The estimated annual expenditure and revenues of the State shall be laid in the form of a statement, in this Act referred to as the "Annual Financial Statement", before the Legislative Council in each year, and the proposals of the Government for the appropriation of the revenues and other moneys in any year shall be submitted to the vote of the Council in the form of demands for grants. The Council may assent or refuse its assent, to a demand or may reduce the amount therein referred to, either by a reduction of the whole grant, or by the omission or reduction of any of the items of expenditure of which the grant is composed:

Provided that:

- (b) The Government shall have power in relation to any such demand to act as if it had been assented to, notwithstanding the withholding of such assent or the reduction of the amount therein referred to, if the demand relates to a reserved subject and if the Diwan certifies that the expenditure provided for by the demand is essential with respect to the proper administration of that subject;
- (c) His Highness may in cases of emergency authorise such expenditure as may be in His Highness' opinion necessary for the safety or tranquillity of the State or for the carrying on of any department;

. . . . .

(2) Nothing in this Act shall require proposals to be submitted to the Council relating to the following heads of expenditure which shall be expenditure charged on the revenues of the State:

- (a) Expenditure relating to any matter removed from the cognisance of the Council by sub-section 2 of section 24 of this Act;
- (b) Expenditure authorised under clause (c) of the preceding sub-section;
- (c) Expenditure which is obligatory under any law;

- (d) Pensions and gratuities granted by His Highness or with His Highness' sanction, or under the rules of the Government;
- (e) Salaries and allowances of such officers as may from time to time be specified by His Highness;
- (f) Interest on loans and sinking fund charges;
- (g) Contributions (charitable or otherwise) made by or with the sanction of His Highness;
- (h) Expenditure classified by the Diwan as political expenditure.

If any question arises whether any proposed appropriation of revenues or moneys does or does not relate to the above heads of expenditure, the decision of the Diwan shall be final.

### Rules under Section 8 of the Government of Cochin Act

Under section 8 of the Government of Cochin Act, 1113, His Highness the Maharaja is pleased to make the following rules:

1. The subjects specified in the Schedule to these rules shall be transferred subjects.

. . . . .

#### SCHEDULE (RULE 1)

##### List of Subjects for Transfer

1. Agriculture.
2. Ayurveda.
3. Co-operation.
4. Development of cottage industries.
5. Panchayats.
6. Public Health.
7. Uplift of the depressed classes.

### The Cochin Legislative Council Electoral Rules, 1943

#### SCHEDULE II

##### *Qualification of electors.*

. . . . .

##### *Special constituencies.*

##### 1. *Landholders' Constituency*

8. *Landholders' constituency.* A person shall be qualified as an elector for the landholders' constituency if he has resided in the Cochin State for not less than 120 days in the previous year and if he is a pattadar of the State owning lands charged to a land revenue assessment of rupees two hundred and fifty or more.

. . . . .

## 2. *Planters' Constituency*

10. *Planters' constituency.* A person shall be qualified as an elector for the planters' constituency if he has resided in the Cochin State for not less than 120 days in the previous year and if he holds or is the recognised manager or a nominee in this behalf in writing of a company or association holding not less than 75 acres of land in the Cochin State, for the purpose of cultivating coffee, tea, rubber, or the like or a combination of one or more of such plants.

.....

## 4. *Commerce and Industry Constituency*

12. *Commerce and industry constituency.* A person shall be qualified as an elector for the commerce and industry constituency, who has resided in the Cochin State for not less than 120 days in the previous year and who:

- (a) Is the owner of a factory which falls within the definition of a factory as defined in the Cochin Factories Act II of 1113, which is situated in Cochin State and in which work has been carried on during the previous year;
  - (b) Is a partner in a firm owning such a factory or is the representative of such a firm and has been nominated in writing by the firm for the purpose of voting in its behalf; or
  - (c) Is a director or representative of a company as defined in the Indian Companies Act as made applicable to Cochin State, having a place of business in the Cochin State and a paid-up capital of not less than rupees five thousand, and who has been nominated in writing for the purpose of voting in its behalf by a majority of the directors; or
  - (d) Is a person whose annual income from commerce and industry or both together is assessed at Rs. 2,000 or more for the purpose of income-tax; or
  - (e) Is a partner or representative of a firm having a place of business in the Cochin State and is assessed at Rs. 2,000 or more for the purpose of income tax and has been nominated in writing by the firm for the purpose of voting in its behalf; or
  - (f) Is a representative of a Chamber of Commerce registered merchants' association or such other association recognised by the Government for this purpose.
- .....

## Gwalior

### Proclamation by the Maharaja Scindia

14 June 1939

We Jiawaji Rao Madhav Scindia always true to Our faith that the well-being of Scindia's Dominion essentially consists in the well-being of Our beloved subjects. We had taken an early opportunity, after assuming the reins of Government in Our hands, of announcing to the session of the Majlis-i-Am convened in March 1938, Our firm resolve to make that body a true representative of the different shades of opinion and responsible adviser concerning the administration of Scindia's Dominion.

Earnestly desirous to carry out the liberal policy of Our beloved father of blessed memory who has bequeathed to Us this sacred heritage and guided by steadfast faith in his wisdom, We reiterate his injunction that the object of good government lies in the cultivation of mutual trust between the Ruler and the

ruled so that its aim may ever be to lighten appreciably the burden of government and retain for the Ruler the abiding love and loyalty of His subjects.

Conscious of this sanctity of Our trust We declare on the advice of Our Nobles and Ministers that:

Our subjects are entitled to the fundamental rights of good citizens and shall possess the various civic liberties which shall include:

- i. Liberty of speech and liberty of the press;
- ii. Liberty of conscience (freedom of religion, which had always remained the guiding principle of Scindia's Government from time immemorial);
- iii. Liberty of association, subject to the limitations and duties laid down by law for the maintenance of peace and order.

The Majlis-i-Am and the Majlis-i-Kanoon shall be replaced by two Houses of Legislature, which shall be known as the Praja Sabha and the Samant Sabha, each of which shall enjoy a life of three years at the end of which each shall be reconstituted.

.....

The method of election to both the Houses of Legislature shall be direct. In order, however, to assure Ourselves that no section of Our people remains unrepresented We are appointing a Franchise Committee, whose object will be to frame rural, urban, vocational and institutional constituencies so as to spread the franchise as wide as the present stage of advancement of Our people would justify, and which would enable the enfranchisement up to twenty per cent of Our adult population and to secure that the constituencies would be fully representative of all people, irrespective of race, caste, creed or sex.

.....

It is Our desire, in course of time and in the light of the experience gained or acquired, to provide for opportunities of increasing association of the people with the administration of the State by appointing a Minister from amongst the members of the Praja Sabha who will be put in executive charge of certain branches of the administration.

Our earnest desire in announcing these reforms in the Constitution is that Our administration should be responsive to the growing political consciousness of Our people and that in the fulness of time they should attain the progressive realisation of their legitimate aspirations through peaceful and constitutional means by the healthy process of natural and organic growth in keeping with their economic and political development. Constitutions cannot be made to order; they have to grow; conventions and traditions have to be established; and for ensuring a healthy and sturdy growth We rely on the loyalty and goodwill of Our people and ultimately on the Grace of the Divine Providence whose merciful aid We humbly invoke on this historic occasion.

## Hyderabad

### Treaty of Perpetual and General Defensive Alliance between The East India Company and the Nizam of Hyderabad<sup>1</sup>

12 October 1800

15. As by the present Treaty the Union and friendship of the two States are so firmly cemented as that they may be considered as one and the same His

<sup>1</sup> *India, Foreign Department. A Collection of Treaties, Engagements and Sanads*, edited by C. AITCHISON, 4th edition, Vol. IX, pp. 67-73.



Highness the Nizam engages neither to commence nor to pursue in future any negotiations with any other power whatever without giving previous notice and entering into mutual consultation with the Honourable East India Company's Government; and the Honourable Company's Government on their part hereby declare that they have no manner of concern with any of His Highness' children, relations, subjects, or servants with respect to whom His Highness is absolute.

## Treaty for the Improvement and Security of the Trade and Commerce between the Territories of the East India Company and the Nizam<sup>1</sup>

*12 April 1802*

Whereas a well regulated commerce is essential to the opulence and prosperity of the people and to the wealth and power of the State; and whereas a free and secure commercial intercourse tends to maintain and improve the relations of amity, peace and concord between contiguous nations: Wherefore the Honourable East India Company and His Highness the Nawab Ausuph Jah, anxious to improve by every possible means the close and intimate connection now happily established between the two States, and to extend the benefits of their union to their respective subjects, have agreed on the following articles of a treaty of commerce between the two States:

1. As the testimony of the firm friendship, union and attachment, subsisting between the Honourable Company and His Highness the Nawab Ausuph Jah, the Honourable Company hereby agree to grant to His Highness the free use of the seaport of Masulipatam; at which port His Highness shall be at liberty to establish a commercial factory and agents under such regulations as the nature of the Company's government shall require and as shall be adjusted between the Governor-General in Council and His said Highness.

2. His Highness' ships bearing his flag shall be entitled at all times to the protection of His Britannic Majesty's and of the Honourable Company's ships of war, and shall be admitted into all the ports belonging to the British Government in India upon the footing of the most favoured nations.

3. There shall be free transit between the territories of the neighbouring parties of all articles being the growth, produce, or manufacture of each respectively; and also of all articles being the growth, produce or manufacture of any part of His Britannic Majesty's dominions.

4. All rahrdarry duties and all duties collected by individual renters or zemindars on goods passing to and from the territories of the contracting parties shall be abolished, and all zemindars, renters, etc. shall be strictly prohibited from committing any acts of extortion or violence on the merchants passing through the respective territories of the contracting parties.

5 - 8. *Import, transit and export duties.*

9. No merchants or traders under the Company's Government shall be allowed to revend in the dominions of the Nawab aforesaid the productions or manufactures of his territories purchased by them therein. Neither shall any grain be exported from the territories of the Nawab aforesaid into those of the Honourable Company without a special license for the purpose; nor any more grain be purchased in His Highness' territories than what is necessary for the consumption of the subsidiary force. . .

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<sup>1</sup> *Ibid.*, pp. 78-81.

## Firman of His Exalted Highness

*17 July 1939*

I have read the Arzdasht of the Constitutional Affairs Department dated 27th Jamadi-ul-Avval 1358 A.H. (15 July 1939) submitting the opinion of the Executive Council on the recommendations of the Reforms Committee set up in pursuance of my Message of the 16th Rajab 1356 A.H. (22 September 1937).

I much appreciate the labours of that Committee, so ably presided over by Dewan Bahadur Aravamudu Aiyangar, and order that its report may now be published together with the resolution of my Government thereon which I approve.

I am desirous that provision should be made for the more effective association of the different interests in my dominions with my Government, and I, therefore, deem it expedient now, in furtherance of that intention,

(1) To reconstitute the Legislative Council, to be known as the Legislative Assembly, as follows:

(a) 42 members elected as follows:

1. Holders of Samasthans and Jagirdars . . . . .	4
2. Maashdars . . . . .	2
3. Agriculturists:	
Pattedars 8 } . . . . .	16
Tenants 8 }	
4. Labour interests . . . . .	2
5. Industries . . . . .	2
6. Commerce . . . . .	2
7. Banking . . . . .	2
8. Legal profession . . . . .	2
9. Medical profession . . . . .	2
10. Graduates . . . . .	2
11. District boards . . . . .	2
12. District municipalities and town committees . . . . .	2
13. Hyderabad municipal corporation . . . . .	2

and (b) 33 members nominated as follows:

(i) 5 members nominated by the Ilaqas as follows:

1. The 3 Paigahs . . . . .	3
2. The Peshkari Estate . . . . .	1
3. The Salar Jung Estate . . . . .	1

(ii) 28 members nominated by the Government of whom 14 shall be officials and 14 non-officials.

In addition to the above, the Members of the Executive Council and three representatives appointed by me from the Sarf-i-Khas shall also be Members of the Legislative Assembly.

I agree with the proposals made by my Executive Council as regards the representation of the Muslims and of the different communities in the Assembly. I further agree with the opinion of the Council with respect to the powers and functions of the Assembly, and its distribution of matters expressly excluded from and included within the purview of the Assembly as well as the class of matters with respect to which the initiative of introducing bills should rest with my Government.

The expansion of the present Legislative Council to the proportions of the proposed Assembly will be of help to me, whenever I may require it in a particular case, in going outside the usual circle of noblemen and officials for selecting Members of my Executive Council, as I shall then have before me the names of such Members of the Assembly as may by their character, loyalty and judgment of public affairs have merited my confidence and proved their ability to discharge the onerous duties attached to membership of my Council.

(2) To establish Statutory Advisory Committees with respect to the following matters:

- (a) Agricultural development
- (b) Education
- (c) Finance
- (d) Industrial development
- (e) Public health and sanitation
- (f) Hindu religious endowments
- (g) Muslim religious endowments
- (h) Religious affairs.

These Committees will advise the Members of Government concerned on such matters, to be referred to these Committees, as have been described in my Council's opinion, the composition of these bodies to be as recommended by the Reforms Committee and the Council.

I welcome the suggestion of the Council that the last-mentioned Committee should be added to the list recommended by the Reforms Committee. I have, since my accession, always favoured the establishment, as far as possible, of institutional in place of personal agencies; a Religious Affairs Committee, composed in such manner that there shall always be equal representation in it of the two major communities, will give effect to my own desire to have such an institution for this purpose, and it is my earnest hope that it will maintain the traditions of goodwill and mutual toleration which have distinguished the long course of Asafia rule in the Deccan, and base its advice on the greatest possible measure of common agreement.

(6) To establish Panchayats for villages having a population of between 2,500 and 5,000, the members to be selected from a panel of double the number required, the panel itself to be selected at an open meeting of the householders of the village. I agree with the Council in the opinion it has submitted on the question of the powers and functions and of the composition of Panchayats and also with the suggestion that effective rural reconstruction societies may be recognised as Statutory Panchayats, in which case the 2,500 minimum of population need not be insisted on.

.....

A responsible press and a responsible public platform are assets of great value. I trust that the new Newspapers Regulation and the proposed new rules for public meetings will have the effect of encouraging the growth of such a press and platform. I shall await the draft enactments with regard to these before signifying my final assent but in regard to public meetings I agree in principle that the existing rules may be repealed, provision being made whereby conveners of public meetings will be required not to obtain any permission but only to give previous intimation to the local authority, power being reserved to it, subject to appeal and control, to prohibit the holding of any particular meeting but only if in its opinion such meeting is likely to cause disturbance of the public tranquillity or to promote sedition or enmity between classes.

The enactments required to give effect to these decisions should be completed for promulgation as early as possible. . .

In determining the franchise for purposes of the different enactments, the

Department concerned must take into consultation suitable district officers. The basis of interests has been selected not only to bring the different interests into closer association with each other and with my Government but also in the interest of the poorer classes of my subjects. Financial limits may be necessary in certain cases for determining the franchise, but I would regard any too high a limit, in a country which is largely agricultural as defeating to some extent the object with which the economic basis has been prescribed. Further, in order that the interests may be truly represented, it is essential that only those engaged in them should be entitled to vote or stand for them. In addition, a person voting or standing for one interest should not be entitled to vote or stand for any other interest in any given election.

Although as unanimously recommended by the Reforms Committee, the Legislature will be of a recommendatory character, nevertheless, the duty will rest on the executive no less than on the non-official members of the different bodies of importing into the working of the Constitution that spirit of accommodation and response which must be its keynote. . .

Such Members of my Government as will be assisted by Statutory Advisory Committees must have due regard to their advice, and must refer cases where they may disagree with such advice to my President of the Council. . .

. . . . .

I pray that this Constitution may have the blessing of Providence. I commend it to all classes of my subjects; to my Nobles, who are the pillars of my State; to the holders of Samasthans and my Jagirdars and Maashdars, who all enjoy grants from me; to the agriculturists who are the foundation of my State's economy and who for the first time will be taken into such association with my Government; to all those engaged in industries, trade, commerce or banking or in the liberal professions; to women with whom rests in such large measure the task of moulding a nation, and to all others of my beloved subjects.

Since the time when Asaf Jah I founded this Muslim State, the Premier State of India, rights of citizenship have been enjoyed equally by all subjects of the State, of whatever caste, creed or community, and I trust that in now exercising those widening rights each will continue the tradition of mutual respect for the sentiments and interests of the others and that all who live under its benign rule and protection will work together for this State as the valued and indivisible asset of all. I am confident that, if worked in the spirit in which it has been conceived, this Constitution will provide both a large measure of present advance and a wide scope for future expansion as, in course of time, both my Government and my people acquire sufficient experience. I trust that both will share the spirit and the desire which have actuated me throughout. In the exercise of my Sovereignty, under the guidance of Providence, I am deeply conscious of my responsibility for the good government of my State, and I am confident that in its due discharge I shall continue to command the best endeavours of all concerned in the same manner as I and my House have always possessed their loyalty and affection.

Arzdasht of the Council

*15 July 1939*

. . . . .

## ANNEXURE TO THE ARZDASHT

*Draft Section of Qanooncha Governing the Powers of the Legislative Assembly*

(1) There shall not be introduced into or moved in the Assembly any bill or motion or resolution or interpellation or other proceedings with respect to the following matters:

1. His Exalted Highness, his House and Family.
2. The powers of His Exalted Highness with respect to the Sarf-i-Khas.
3. The relations of His Exalted Highness with the Crown of the United Kingdom or with any other Government, State or Ruler, including any treaty, agreement, engagement or other Instrument between His Exalted Highness and the Crown or any other Government, State or Ruler.
4. Matters relating to Berar.
5. The relations of His Exalted Highness with the Paigahs.
6. The Executive Council.
7. The military and other armed forces, including the police force; the Criminal Investigation Department, including the Special Branch.
8. The relations of His Exalted Highness with the Samasthans and Jagirs, and with such other grantees as derive grants from Sanads.
9. The powers of His Exalted Highness with respect to present and future grants of land or cash.
10. Charters granted by His Exalted Highness.
11. Durbars or the ceremonial relating thereto; Warrant of Precedence; Titles.
12. The exercise by His Exalted Highness of any of his prerogatives, including the prerogative of mercy.
13. The State language.
14. Appointments or expenditure relating to any of the above matters including expenditure under any law for the time being in force or expenditure classified by the Government as "political charges"; salaries and allowances; pensions and gratuities; the sinking fund and the public debt; State charities or donations or religious endowments.
15. Enquiries and statistics for the purpose of any of the above matters.
16. The amendment of any of the provisions of this Qanooncha.
17. Any other matter that may be specified by His Exalted Highness.

(2) Subject to the provisions of this Qanooncha and to the rules made thereunder, any Member of the Assembly shall have the power to introduce into or move in the Assembly any bill or motion or resolution or interpellation or other proceedings with respect to any of the matters specified in the Schedule hereto; provided that no bill shall be moved, without the previous permission of the Government in writing and subject to such conditions as the Government may prescribe in that behalf, which may in any manner affect the religious beliefs or practice of any community or sect inhabiting the Dominions.

(3) No Member of the Assembly shall have the power, without the previous permission of the Government in writing and subject to such conditions as the Government may prescribe in that behalf, to introduce into or move in the Assembly any bill or motion or resolution or interpellation or other proceedings with respect to any matter not specified in the said Schedule; provided that with respect to the following class of matters no bill shall be introduced except by the Government or any Member thereof:

1. Carriage of passengers or goods by rail or air, and all matters ancillary or incidental thereto, including State Railway Telegraphs.
2. The possession, supply, use, storage or transport, as the case may be, of arms, firearms, ammunition or of explosives, including petroleum or other liquids and substances declared by the Government to be dangerously inflammable.
3. Public order; preventive detention; censorship and official secrets.

4. Admission into and emigration and expulsion from the Dominions, including the regulation of the movement in the Dominions of persons who are not His Exalted Highness' subjects; colonisation; naturalisation.
5. The constitution and organisation of all Courts whether Civil, Criminal or Revenue Courts; the jurisdiction and powers of the Judicial Committee and the High Court.
6. Attiyat and any law, custom or usage with respect to succession, adoption, partition, transfer, maintenance and the like applicable to Attiyat, save procedure in Attiyat Courts.
7. Mines and mineral development, including safety in mines.
8. Government insurance and State-banking; monopolies.
9. Administration and the public services.
10. Local Government, including local Government in State Cantonments and mining areas; the delimitation of such cantonments and areas.
11. Currency, coinage and legal tender.
12. Taxation, including local taxation; land revenue and settlement; fees or duties or expenditure with respect to any of the above class of matters.
13. Census.
14. Any other class of matters that may be specified by His Exalted Highness.

(4) Notwithstanding the provisions of sub-section (2) of this section, so much of any matter specified in the said Schedule hereto or not specified therein or in any of the preceding sub-sections of this section as may be included in any of the matters or class of matters specified in sub-sections (1) and (3) of this section respectively, shall be construed as being related to the matters with respect to which the provisions of sub-sections (1) and (3), as the case may be, shall apply; provided that the Government shall have the power to decide whether any part of a matter is or is not related to any of the matters or class of matters with respect to which sub-sections (1), (2) or (3) of this section shall apply.

*Schedule Relating to Draft Sub-Clause 2 of the Annexure*

1. Agriculture, including the improvement and furtherance of improved methods of agriculture and the furtherance of such improved methods and of agricultural research; standardisation and grading of agricultural produce; protection against pests and prevention of plant diseases; civil veterinary; pounds and the prevention of cattle trespass.
2. Fisheries.
3. Trade and commerce within the Dominions; markets and fairs; money-lending and money-lenders.
4. The development of industries.
5. Factories.
6. Welfare of labour; the conditions of labour; provident funds, employer's liability and workmen's compensation, health or unemployment insurance; invalidity or old-age pensions.
7. Regulation of labour in mines and oilfields.
8. Relief of the poor; unemployment.
9. Vagrancy and mendicancy.
10. Communications, that is to say, roads, ferries and bridges, save bridges for railway purposes; inland waterways and navigation or traffic thereon, save as regards mechanically propelled vessels; municipal tramways and rope-ways and traffic thereon, vehicles.
11. Water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage and water power.
12. Education, save as regards the determination of the medium of instruction in higher education and as regards the vesting of the control and supervision of education.
13. Libraries, museums and other similar institutions controlled or financed by the Government.
14. The Geological, Botanical and Zoological Surveys of the Dominions; meteorological organisations, including the Observatory.

15. Corporations, that is to say, the incorporation, regulation and winding-up of trading corporations, including banking, insurance and financial corporations; unincorporated trading associations.
16. Banking, that is to say, the conduct of banking business by corporations.
17. The law of insurance and the regulation of the conduct of insurance business.
18. The incorporation, regulation and winding-up of literary and scientific societies and associations; co-operative societies.
19. Public health and sanitation; hospitals and dispensaries; registration births and deaths.
20. Quarantine and hospitals connected with quarantine.
21. Lunacy and mental deficiencies, including places for the reception or treatment of lunatics and mental deficient.
22. The prevention of the extension from and to the Dominions of infectious or contagious diseases or pests affecting men, animals or plants.
23. Adulteration of foodstuffs and other goods, weights and measures.
24. Prevention of cruelty to animals.
25. Inns and innkeepers.
26. Ancient and historical monuments; archaeological sites and remains.
27. State Post Office Savings Banks.
28. Copyright, inventions, designs, trademarks and merchandise marks.
29. Compulsory acquisition of land.
30. Public works, lands and buildings.
31. Theatres, dramatic performances and cinemas.
32. Betting and gambling.
33. Marriage and divorce; infants and minors; adoption.
34. Wills, intestacy and succession, save as regards agricultural land.
35. Transfer of property other than agricultural land.
36. Registration of deeds and documents.
37. Trusts and trustees, save trusts controlled by the Government.
38. Contracts, including partnership, agency, contracts of carriage, and other special forms of contract but not including contracts relating to agricultural land or to carriage undertaken by the Government.
39. Arbitration.
40. Bankruptcy and insolvency; administrators-general and official trustees.
41. Actionable wrongs.
42. Evidence and oaths; recognition of laws, public acts and records and judicial proceedings.
43. Civil procedure, including the law of limitation.
44. Procedure in Rent and Revenue Courts.
45. Court fees save rates of court fees.
46. Legal, medical and other professions.
47. Charities and charitable institutions.
48. Stamp duties, cheques, bills of exchange, promissory notes and other like instruments, save rates of stamp duties.
49. Jurisdiction and powers of all courts, except the High Court, with respect to any of the matters in this Schedule.
50. Agencies and institutions for the following purposes, that is to say, for research, for professional or technical training, or for the promotion of special studies relating to any of the matters in this Schedule.
51. Offences against laws with respect to any of the matters in this Schedule.
52. Statistics for the purpose of any of the matters in this Schedule.
53. Any other matter that may be specified by His Exalted Highness.

## Indore

### Notification by the Prime Minister of the Maharaja Holkar

25 March 1940

.....  
The existing representative institutions shall be reformed as follows:

#### I. *Legislative Council.*

(1) The Council shall be enlarged so as to consist of 50 members with a majority of elected members, namely, 34 elected and 16 nominated. Of the latter 8 will be officials including 2 Ministers, and 8 non-officials including representatives of Harijans and labour. . .

(2) The constituencies shall be as follows:

.....  
(c) Special — 9 seats to be allotted as follows:

Graduates . . . . .	1
Jagirdars . . . . .	2
Textile industry . . . . .	1
Other industries . . . . .	1
Chamber of Commerce when constituted . . . . .	1
Trade and commerce . . . . .	1
Women . . . . .	2

(7) Two committees with non-official majority may be appointed by the House, one of which may be the Finance Committee and the other Public Health and Education Committee, the former to advise in matters relating to Finance and the other to advise in matters relating to the nation-building activities of the State.

(8) The Council shall have the right of interpellations, passing of bills, resolutions and motions and discussion of the Budget, subject to the following reservations:

1. The Council shall not pass or consider bills relating to or affecting:

(c) Matters governed by treaties, conventions or agreements now in force or hereafter to be made between His Highness' Government and any other Government.

2. No official measure shall be introduced into the Council without the previous sanction in writing of the Government and no measure of any kind shall be introduced without such sanction, if it

(a) Affects or is likely to affect the public revenue of the State, or creates or is likely to create any charge on such revenues; or

(b) Affects the religion or religious rites and usages of any class of His Highness' subjects or creates racial bitterness.

.....  
6. The annual budget shall be presented in the form of a financial statement for discussion on main heads. It shall be made clear that expenditure relating to matters excluded from the cognisance of the Council in respect of bills and other matters usually excluded shall not be discussed, *e.g.* political and ecclesiastical expenditure, pensions, etc.



(10) If the successful working of the reformed Constitution justifies, His Highness will appoint a Minister from among the elected members.

#### IV. *Village Panchayats.*

There shall be a five-year programme for providing every village with a Village Panchayat. Where a village is too small to have an independent Panchayat of its own, a convenient group of villages may be formed for a common Panchayat. . .

## Kashmir

### The Jammu and Kashmir Constitution Act of 1996 (XIV of 1996)

*22nd Bhadon 1996, 7 September 1939*

14. *Constitution of the Praja Sabha.* (1) The Praja Sabha shall consist of the President and seventy-five other members.

(4) Thirty-three of the elected members shall represent the communities and the general constituencies shown in Schedule II and seven shall represent the special constituencies shown in Schedule III.

24. It shall not be lawful for the Praja Sabha to consider or deal with any matter or enact any law relating to or affecting:

- (b) Relations, treaties, conventions or agreements between the State and His Majesty the King Emperor of India or the Government of India or with Foreign Powers or the Government of any State in India now subsisting or in force or hereafter to be established or made;

.....  
36. It shall not be lawful, without previous sanction of His Highness, to introduce, consider or pass any bill affecting the religious rights, usages, endowments or personal law of any community, and no such bill shall be deemed to be passed by the Praja Sabha unless two-thirds of the members of the Praja Sabha from the community affected are present at the meeting of the Praja Sabha and vote in its favour.

42. *Classification of expenditure.* The estimates of expenditure embodied in the annual financial statement shall show separately:

- (a) The sums required to meet expenditure described by this Act as expenditure charged upon the revenues of the State; and
- (b) The sums required to meet other expenditure proposed to be met from the revenues of the State.

43. *Expenditure charged on the revenues of the State.* The following expenditure charged on the revenues of the State:

- (a) Expenditure on matters reserved from the cognisance of the Praja Sabha under section 24.
- (b) Contributions payable to other Governments.
- (c) Expenditure obligatory under any law.
- (d) Interest on loans and sinking fund charges.
- (e) Expenditure which may be classed by His Highness or the Council as political.

- (f) Pensions and gratuities granted by His Highness or with his sanction or under the rules sanctioned by His Highness or the Council.
- (g) Contributions, grants and scholarships sanctioned by His Highness.
- (h) Salaries of the judges of the High Court and the members of His Highness' Board of Judicial Advisers.
- (i) Salaries of such other officers as His Highness may specify from time to time.
- (j) Such other expenditure as His Highness may specify from time to time.

45. *Procedure in the Praja Sabha with respect to estimates.* (1) So much of the estimates of expenditure as relates to the expenditure charged on the revenues of the State shall not be submitted to the vote of the Praja Sabha.

(2) So much of the said estimates as relates to the other expenditure shall be submitted to the Praja Sabha in the form of demands for grants. The Praja Sabha shall have the power to assent or to refuse to assent to any demand or to assent to a demand subject to a reduction of the amount specified therein :

Provided that :

- (a) The Council shall have power, in relation to any such demand, to act as if it had been assented to, notwithstanding the withholding of such assent or the reduction of the amount therein specified, if the Council considers that the expenditure provided for by the demand is necessary for the carrying on of any department or for the discharge of the Council's responsibility for its administration; and
  - (b) His Highness may in cases of emergency authorise such expenditure as may in his opinion be necessary for the safety or tranquillity of the State or any part thereof or for the carrying on of any department.
- (3) No demand for a grant shall be made except on the recommendation of the Council.

46. *Supplementary expenditure.* If in respect of any financial year further expenditure from the revenues of the State becomes necessary over and above the expenditure authorised for that year, the Council shall have the power to authorise that expenditure. A statement of the expenditure so authorised shall be presented to the Praja Sabha along with the financial statement for the following year.

### SCHEDULE III. SPECIAL CONSTITUENCIES<sup>1</sup>

Serial No.	Constituency	Number of members
	(A) <i>Tasimi Sardars.</i>	
1	Jammu Province including Chenani and Poonch Jagirs.	1
2	Kashmir Province including Frontier Districts.	1
	(B) <i>Jagirdars, Muafidars and Mukkararidars holding a Jagir, Muafi or Mukkarari from the State of not less than Rs. 500 per annum.</i>	
3	Jammu Province including Chenani and Poonch Jagirs.	1
4	Kashmir Province including Frontier Districts.	1
	(C) <i>Landholders owning land assessed to land revenue of not less than Rs. 250 per annum.</i>	
5	Jammu Province including Chenani and Poonch Jagirs.	1
6	Kashmir Province including Frontier Districts.	1
	(D) <i>Pensioners receiving Rs. 100 or more as pension per month.</i>	
7	Jammu and Kashmir State.	1

<sup>1</sup> See section 14.

## Kolhapur

### Articles of Agreement for the Removal of Certain Restrictions of Free Trade in the State of Kolhapur and Certain Adjoining States of the Southern Mahratta Country<sup>1</sup>

1 November 1886

1. The Kolhapur State engages to abolish within the territories of His Highness the Raja of Kolhapur and to cause to be abolished in the Feudatory States from henceforth, all taxes and imposts on the import, export or measurement of commodities other than snuff, sulphur and poisonous drugs; provided that nothing in this article shall be construed to prevent the levy of any tolls on bridges, roads, ferries, canals, or causeways for the repair or maintenance of the same, or of any octroi levied upon articles consumed within municipal limits, or of any taxes constituting the Abkair revenue.

2. With a view to encourage local industries, the State of Kolhapur engages to abolish all special taxes on trades and industries or on the sale of their manufactured commodities, whether levied under the designation of the Mohtarpha taxes or any other name.

3 and 4. (*Similar engagements to be obtained from other States.*)

## Mysore

### Instrument of Transfer<sup>2</sup>

1 March 1881

8. The Maharaja of Mysore shall not, without the permission of the Governor-General in Council, import, or permit to be imported, into the said territories, arms, ammunition or military stores, and shall prohibit the manufacture of arms, ammunition and military stores throughout the said territories, or at any specified place therein, whenever required by the Governor-General in Council to do so.

12. The Maharaja of Mysore shall not employ in his service any person not a native of India without the previous sanction of the Governor-General in Council, and shall, on being so required by the Governor-General in Council, dismiss from his service any person so employed.

13. The coins of the Government of India shall be a legal tender in the said territories in the cases in which payment made in such coins would, under the law

<sup>1</sup>India, Foreign Department. *A Collection of Treaties, Engagements and Sanads*, edited by C. AITCHISON, 4th edition, Vol. IX, pp. 139-141. These articles are included as typical of a number of agreements with States designed to secure internal free trade in India on lines such as are frequently provided for by the texts of Federal Constitutions.

<sup>2</sup>This was the instrument whereby the British Government which had been in possession of the territories of Mysore entrusted Maharaja Chamrajendra Wadiar Bahadur with the Government of the said territories. For the full text, see P. MUKHERJI: *Indian Constitutional Documents, 1600-1918*, Vol. I, Calcutta and Simla, 1918, pp. 574-580.

for the time being in force, be a legal tender in British India; and all laws and rules for the time being applicable to coins current in British India shall apply to coins current in the said territories. The separate coinage of the Mysore State, which has long been discontinued, shall not be revived.

14. The Maharaja of Mysore shall grant free of all charge such land as may be required for the construction and working of lines of telegraph in the said territories wherever the Governor-General in Council may require such land, and shall do his utmost to facilitate the construction and working of such lines. All lines of telegraph in the said territories, whether constructed and maintained at the expense of the British Government, or out of the revenues of the said territories, shall form part of the British telegraph system and shall, save in cases to be specially excepted, by agreement between the British Government and the Maharaja of Mysore, be worked by the British Telegraph Department; and all laws and rules for the time being in force in British India in respect to telegraphs shall apply to such lines of telegraph when so worked.

15. If the British Government at any time desires to construct or work, by itself or otherwise, a railway in the said territories, the Maharaja of Mysore shall grant free of all charge such lands as may be required for that purpose, and shall transfer to the Governor-General in Council plenary jurisdiction within such land; and no duty or tax whatever shall be levied on through-traffic carried by such railway which may not break bulk in the said territories.

18. The Maharaja of Mysore shall comply with the wishes of the Governor-General in Council in the matter of prohibiting or limiting the manufacture of salt and opium, and the cultivation of poppy, in Mysore; also in the matter of giving effect to all such regulations as may be considered proper in respect to the export and import of salt, opium and poppy-heads.

22. The Maharaja of Mysore shall at all times conform to such advice as the Governor-General in Council may offer him with a view to the management of his finances, the settlement and collection of his revenues, the imposition of taxes, the administration of justice, the extension of commerce, the encouragement of trade, agriculture and industry, and any other objects connected with the advancement of His Highness' interests, the happiness of his subjects, and his relations to the British Government.

23. In the event of the breach or non-observance by the Maharaja of Mysore of any of the foregoing conditions, the Governor-General in Council may resume possession of the said territories and assume the direct administration thereof, or make such other arrangements as he may think necessary to provide adequately for the good government of the people of Mysore or for the security of British rights and interests within the Province.

24. This document shall supersede all other documents by which the position of the British Government with reference to the said territories has been formally recorded. And if any question arise as to whether any of the above conditions has been faithfully performed, or as to whether any person is entitled to succeed, or is fit to succeed, to the administration of the said territories, the decision thereon of the Governor-General in Council shall be final.

### Proclamation of the Maharaja

*6 November 1939*

Whereas the welfare and advancement of My people have been My constant aim and endeavour, and

Whereas the fundamental identity of interests between My people and My

Government has found satisfactory and progressive fulfilment in the measures adopted by Me from time to time, and

Whereas it is now My desire to take further steps to increase the association of the representatives of My people with My Government in the administration of the State in pursuance of My cherished and declared policy,

I hereby ordain as follows :

The Representative Assembly . . . and the Legislative Council . . . have hitherto been functioning under separate Acts. They will now be brought into integral relationship with one another, and will henceforth function under a consolidated law relating to the Constitution of Mysore. . .

2. The powers and scope of the Representative Assembly will be enlarged, while its character as a body for consultation and reference will still be maintained. Its strength which is at present fixed at a maximum of 275 will be raised to 310 ordinarily, with a view to providing better representation for minority communities and for economic and other special interests.

3. The privilege already enjoyed by the Assembly of being consulted with regard to the general principles of proposed measures of legislation will be widened so as to provide that in future the Representative Assembly will invariably be consulted in regard to any legislative measure before it is introduced into the Legislative Council, and that it will have the right of considering the general principles underlying any bill or any of its provisions and of proposing amendments thereto. The opinion expressed on any legislative measure by the Assembly will ordinarily be accepted by My Government when supported by a prescribed majority, although in exceptional cases where it may be necessary in the public interest or for the ensuring of safety and good government to proceed with a bill in the Legislative Council notwithstanding the opinion of the Assembly, My Government will do so, after issuing a statement giving reasons therefor.

4. Subject to the existing exceptions, the Assembly will have the right to consider the State Budget and pass resolutions not only on the general principles and policy underlying the Budget, but also on any of the major heads of expenditure, without reference, however, to any particular grants or appropriations. The existing restriction regarding discussion on expenditure pertaining to My military forces will be relaxed. The number of resolutions on matters of public interest, questions and representations which may be sent up will be increased, and the duration of the sittings of the Assembly will also be augmented, so as to allow larger opportunities for the introduction and disposal of non-official business.

5. In the case of legislative, financial and administrative measures under contemplation, My Government will, as far as possible, consult the Assembly and ascertain its views on such measures before making a final decision.

6. The strength of the Legislative Council will be further increased, and its composition revised so as to increase the elected element therein, and ensure a statutory elected majority. . .

7. In respect of the State Budget, the Legislative Council has already been given the power to deal with demands for grants except in respect of excluded subjects and subject to My Government's power to restore a provision, if they consider such restoration necessary for the carrying on of a department or for discharging Government's responsibility, and, in cases of emergency, to authorise such expenditure as may be necessary for the safety and tranquillity of the State. In future such action will be taken only after a formal certification of My Dewan.

8. Along with the grant of enlarged powers and privileges to the Representative Assembly and the Legislative Council, it is My further desire that the electorate for these bodies should be further widened in some respects. . .

9. The elected representatives of the people will henceforward be given a place in My Executive Council, so that the Legislature may be able more largely

to influence the nature of the advice and assistance which My Council tenders to Me. Accordingly My Executive Council will in future consist of My Dewan and not less than four Ministers, of whom it is My desire that not less than two should be non-officials selected from among the elected members of the Representative Assembly and the Legislative Council, such Ministers being eligible to hold any portfolio of the administration.

11. My Government will take immediate steps to give effect to this Proclamation, and will adopt such measures as may become necessary from time to time to carry out My intentions. I have every confidence that My people will utilise these larger opportunities for public service and usefulness to the State with the same sense of responsibility as in the past, and in a spirit of mutual toleration and good will. Under the Divine blessing and guidance may the measures now inaugurated serve to promote the abiding happiness of all classes of My beloved subjects.

### Order concerning Constitutional Reform<sup>1</sup>

6 November 1939

In pursuance of the undertaking given by them to the Legislative Council in January 1938, Government in their Order No. 2691-2751 — C.B. 165-37-1, dated the 1st April 1938, appointed a special Committee . . . for the purpose of examining the working of the representative institutions in the State and formulating comprehensive proposals as to the further changes which might be desirable in order to secure the steady and harmonious constitutional progress of the State. . .

3. The Committee asked for opinions from the public, and invited the Members of the Legislative Council and the Representative Assembly as well as other prominent persons and associations in the State to send in their considered views on the subject. . . The Committee has thus taken account of all shades of public opinion in the country before arriving at its conclusions. On the Committee itself practically all schools of thought were represented.

Seeing that already nearly a year and a half has elapsed since the appointment of the Committee, Government are of opinion that it is in the public interest to deal with the recommendations of the Committee at once. Careful and detailed consideration has been given to the report of the Committee as well as to all other views placed before the Government, and the decisions arrived at in regard to the general scheme have been embodied in the Proclamation which His Highness the Maharaja has been pleased to promulgate. Government will now proceed to explain these decisions with reference to the recommendations of the Committee and to pass orders regarding matters of detail.

4. The history of representative institutions in Mysore is a long and interesting one. The history has been touched upon in the Government Order relating to the Constitutional Reforms of 1923, and also in the Government Order of the 1st April, 1938, appointing the Committee whose recommendations are now under consideration. The growth and working of these bodies has been reviewed in detail by the Committee in chapter II of its report, which gives a clear perspective of the course of constitutional evolution in Mysore during the last six decades.

The two popular institutions, the Representative Assembly which is peculiar to Mysore and the Legislative Council, whose growth has proceeded *pari passu* with the economic development of the State and the political advance of the people, have,

<sup>1</sup> Order No. 1849-900 — C.B. 58-38-1 dated Bangalore, 6 Nov. 1939.

each in its own sphere, been serving as a forum for bringing the wants and views of the people to the notice of Government. The Representative Assembly is a unique democratic institution which Mysore has evolved in order to meet her own needs; and the bulk of the memoranda received and the witnesses who were examined before the Committee, especially those from the rural parts, are emphatic about its usefulness and the necessity for its continuance. The two Houses do not, however, correspond to the two chambers of a bicameral legislature. It may well be said that the Representative Assembly embodies the oriental conception of government, while the Legislative Council represents its occidental conception. The two stand in a peculiar relationship to each other. They are not strictly co-ordinate, but supplement each other's functions.

Government are in entire agreement with the recommendation of the Committee that both Houses should be continued in the new Constitution, practically in their present form and character, but with certain enlarged powers and functions.

.....

12. The Committee has recommended that, with a view to safeguarding religious rights or usages, especially of the minority communities, previous sanction should be made a condition of the introduction in either of the Houses of any measure affecting the religion, religious rights or usages of any class of His Highness' subjects. Opinion in the Committee was, however, almost equally divided on the point whether the previous sanction should be that of His Highness or of the Dewan. Government consider that the existing provision that no measure of any description shall be introduced in the Council without the previous sanction in writing of the Dewan, is adequate for meeting such situations and that it will be sufficient if this is made specifically applicable to the Representative Assembly also.

13. The Assembly already possesses the right of being consulted with regard to all proposals for the levy of new taxes or the enhancement of existing taxes. The budget is laid before the Assembly in the form of a statement which it is empowered to discuss, with the exception of certain heads of expenditure excluded from its purview. The exclusion of these heads is a necessary corollary to similar exclusions in the field of legislation. In respect of the following items, the proposals of the Government for the appropriation of revenues or other moneys for expenditure are not now open to discussion either in the Representative Assembly or the Legislative Council, nor are they liable to be submitted to the vote of the Legislative Council:

- (i) The palace, including the staff and household of His Highness the Maharaja;
- (ii) The military forces of His Highness the Maharaja;
- (iii) The pensions of public servants;
- (iv) Items of expenditure relating to or affecting:
  - (a) The relations of His Majesty the Maharaja with the Paramount Power or with other States;
  - (b) Matters governed by treaties or conventions or agreements now in force or hereafter to be made by His Highness the Maharaja with the Paramount Power;
- (v) Interest on loans and charges on account of sinking funds guaranteed at the time of raising the loans;
- (vi) Expenditure of which the amount is specified by or under any law.

32. The Committee has recommended the allotment of 28 seats to the special interests. Government consider that separate representation is unnecessary in the case of Inamdars and agriculture including sericulture, and that the number of seats proposed by the Committee for trade and commerce, and for industries is capable of reduction by one each, and that under present conditions in the State, 3 seats will provide adequate representation for labour. The total number of seats for the special interests will thus be reduced to 22 and distributed as follows:

Name of interest	No. of seats
University . . . . .	1
Planting . . . . .	2
Trade and commerce . . . . .	1
Industries . . . . .	2
Women . . . . .	11
Labour . . . . .	3
Co-operation and banking . . . . .	1
Gold mining . . . . .	1
Total . . . . .	22

Government accept the Committee's recommendations that out of the two seats reserved for the planting interest, one may be set apart for election by European planters and the other by Indian planters; . . .

46. Four social interests are now recognised for the purpose of representation in the Council, *viz.*, Mysore University, trade and commerce, planting, and labour, which have been given one seat each. The Committee proposes that the number of seats given to planting and to labour may be increased to two, and suggests two seats for women and one seat each for mining and other industries.

Government approve of these proposals but they do not consider it necessary to allot a seat to "other industries". The special interests to be represented on the Council and the number of seats allotted to them will be as follows:

University . . . . .	1
Trade and commerce . . . . .	1
Mining . . . . .	1
Planting:	
(a) Indian . . . . .	1
(b) European . . . . .	1
Labour . . . . .	2
Women . . . . .	2
Total . . . . .	9

64. Among other recommendations, the Committee urges the necessity for a declaration of fundamental rights. This subject has been a fruitful ground of controversy, and it is a debatable point whether a declaration of such rights would serve any useful purpose. As observed by the Committee, it is well known that most of these rights are now being actually enjoyed by the people of Mysore. Government, while sympathising with the considerations which actuated the Committee to make their recommendation, consider it unnecessary to make any formal declaration in this behalf.

69. As has been pointed out by the Committee, "The principle which has inspired all constitutional developments in Mysore was first indicated in the Government Order of the 25th August 1881, calling into being the Mysore Representative Assembly, *viz.*, that it should serve to convince the people that the interests of the Government are identical with those of the people. In the successive schemes of reform that have been adopted in the State from time to time during the last fifty-eight years, this purpose of enabling the citizens to realise the fundamental oneness between themselves and the State, by allowing them to participate in the shaping of the policies and measures of the Government, has found progressive fulfilment."

The Proclamation announcing the Reforms of 1923 affirmed His Highness'



constant and earnest desire to provide for the increasing association of his people with his Government in the administration of the State. There need be no doubt whatever that the same policy will be pursued in the future and that the Constitution will continue to develop by natural process determined by reason and reality, so that progress will be genuine and secure.

### Orissa Feudatory States

#### Sanad Granted to the Chief of Athgarh Defining His Status, Powers and Position with Reference to the British Government, 1908<sup>1</sup>

5. You shall administer justice fairly and impartially to all alike.

6. You shall recognise and maintain the rights of all your people, and you shall on no account oppress them or suffer them to be in any way oppressed.

7. You shall levy no transit duties on grain, merchandise or any article of commerce passing through your State.

8. You shall consult the Commissioner of the Orissa Division, or any officer duly vested with authority by His Honour the Lieutenant-Governor of Bengal, in all important matters of administration, and comply with his wishes. The settlement and collection of the land revenues, the imposition of taxes, the administration of justice, arrangements connected with excise, salt and opium and for catching elephants, the concession of mining, forest and other rights, disputes arising out of any such concession, and disputes in which other States are concerned, shall be regarded as specially important matters and in respect to them you shall at all times conform to such advice as the Commissioner of the Orissa Division, or such other officer as aforesaid, may give you.

### Rampur

#### Firman of the Nawab

*1 January 1940*

Our thanks are due to the Almighty for having guided the destinies of this State and for the moral and material advance that has taken place in Rampur since we assumed the reins of Government. It has been our main wish and concern to ensure the increasing happiness and welfare of our people, so that by a sure process of evolution this State may become a proud model of civilisation and culture. With this object before us, we have endeavoured to create and mould the policy of our Government, and the progress achieved in recent years constitutes an eloquent testimony of the blessings of Almighty God on the endeavours we have made in this direction.

Alongside the desire to promote the happiness and prosperity of our loyal subjects, it has been our constant wish that the political concepts of our people may so evolve that with experience, prudence, ripe judgment and a growing sense of responsibility they may assist us in building a greater Rampur.

This State is a sacred trust handed down to us by our ancestors, and its service is a duty shared with us by every one of our subjects. We have always

<sup>1</sup> This Sanad is included as an illustration of those defining the status, powers and position of the Chiefs of the smaller States.

looked upon this State as one big family, of which the Ruler is the head and the people are the members. It was with this point of view that we commenced the political education of our people and took the first steps to create in them a sense of political responsibility. . .

It is with great pleasure that we take this opportunity of stating that all these measures to establish the co-operation and association of the people with our Government have met with unqualified success. The co-operation, unity of purpose and mutual respect which have characterised the relations between the official and non-official members is a source of gratification to us, and a hopeful augury for the future. Inspired by this demonstration of concord and good will we announced on the occasion of our birthday, last year, that the Legislative Committee would be reconstituted in order to give it a wider scope. A new Constitution has, therefore, been framed under our orders, and forms part of this Firman. . .

. . . The new Majlis (Assembly) will consist of thirty-four members out of whom seventeen will be elected non-officials returned by the different constituencies; five non-officials will be nominated by us to represent special interests, and the remaining twelve will be officials nominated by us. From this it will be seen that whereas in the former Legislative Committee only six out of fourteen members were non-officials and out of these six, only three were elected, in the new Majlis (Assembly) seventeen out of thirty-four members will be elected and twenty-two will be non-officials.

The new Constitution has been framed primarily on a functional rather than a territorial basis, so that on the one hand the necessity of communal representation is reduced to a minimum, and on the other, all important interests find representation in the Majlis. Not only will the co-operation and association of these interests with each other and with the Government be thus promoted, but the interests of the poorer classes of our subjects will be safeguarded thereby.

Economically, the most important class of the community in this State is that of the agriculturists. In this Constitution ten seats have been allotted to this class. Out of these, seven have been allotted to tenants. The tenantry constitute the foundation of the economic structure of the State, and for the first time they have been brought into direct association with our Government. Out of the seven seats allotted to tenants, three Muslim members will be elected by Muslim voters, and the remaining four members will be non-Muslims elected by non-Muslim tenants. As regards the three remaining seats for agriculturists, one each has been allotted to Zamindars and the Thekadars of villages, and the third to Jagirdars and Muafidars.

. . . . .

Among every people future hopes centre around those who have received the benefits of education, and that is why we have allotted one seat to the educated people of Rampur.

In the process of legislation legal knowledge and experience are of the utmost value and assistance, and it is for this reason that we have allotted a seat in the Majlis to the legal practitioners of Rampur.

The economic and industrial development of Rampur is one of the most prominent features of the present-day administration of the State. The establishment of factories has been of great benefit to our State and its people, and has given a great impetus to business of all kinds. We have, therefore, allotted one seat each to industry and commerce.

Beside the interests to be represented in the manner we have already indicated, there are other interests of special importance to represent whom we deem it fit to nominate members in the Majlis.

. . . . .

In order to safeguard the present interests of the artisans, labour and the backward classes and to promote their future advancement, we have decided to

nominate a member of the Majlis to represent each of these classes of this community.

We have empowered the Majlis, subject to the provisions of this Firman and the rules made thereunder, to make laws for the State and our subjects and also to move resolutions on matters of public interest and importance. In addition, the State Budget will be placed for discussion before the Majlis which will be empowered to move resolutions thereon, subject to the above-mentioned provisions.

In order to promote closer co-operation between the Government and the public representatives, and to enable officials and non-officials to understand and appreciate each other's point of view in matters closely affecting the welfare of the people as well as to give non-officials an insight into the working of important administrative departments, we intend to establish different Statutory Advisory Boards to be composed of official and non-official members. These Boards will advise the Members of the Government concerned on matters which will be placed before them.

It is our earnest desire and hope that under the new Constitution this State will move along the path of progress with even more rapid strides than before. The presence in the Majlis of the representatives of all the different interests in the State will prove a source of strength and support to our Government, and the spirit of co-operation thus engendered will bring forth even more clearly the fundamental unity of purpose which exists between our Government and our people.

In the end, it is our fervent prayer that the representatives of our people and the Members of our Government may work together in a spirit of mutual trust, esteem and toleration under the aegis of their Ruler for the welfare of the State.

The Constitution of the Majlis-i-Muqannina of Rampur State shall be as hereinafter.

## Constitution

.....

2. The Majlis shall consist of thirty-four members excluding the President, out of whom seventeen shall be elected, five shall be non-officials nominated to represent different interests and the remaining twelve shall be nominated officials.

3. The elected members shall represent the following constituencies and the number of members to be elected by the constituencies shall be as given below:

### 1. Agriculturists.

(1) Tenants,	Muslims 3	}	7
	Non-Muslims 4		
(2) Zamindars			1
(3) Thekadars			1
(4) Jagirdars and Muafidars			1
			10

2. Municipal board	Muslims 2	}	3
	Non-Muslims 1		
3. Educated persons			1
4. Legal practitioners			1
5. Commerce			1
6. Factories			1

Total . . . . . 7

5. (2) (a) The five non-official members will be nominated as follows:

(1) Rohillas . . . . .	2
(2) Artisans . . . . .	1
(3) Labour . . . . .	1
(4) Depressed classes . . . . .	1
	<hr/>

5

26. *Introduction of bills requiring His Highness' previous sanction.* There shall not be introduced into or moved in the Majlis without the previous sanction of His Highness and without fulfilling such conditions as His Highness may prescribe in that behalf, any bill, resolution or amendment if it:

- (1) Affects or is likely to affect the public revenues of the State, or creates or is likely to create any charge on such revenues; or
- (2) Affects the religion or the religious rites and usages of any class of His Highness' subjects; or

.....

27. With respect to the following class of matters no bill shall be introduced except by the Government or any member thereof:

- (1) The possession, supply, use, storage or transport, as the case may be, of arms, firearms, ammunition or of explosives, including petroleum or other liquids and substances declared by the Government to be dangerously inflammable.
- (3) Admission into and emigration and expulsion from the Rampur State, including the regulation of the movement in this State of persons who are not His Highness' subjects; colonisation; and naturalisation.
- (5) Government insurance and State-banking monopolies.
- (8) Taxation, land revenue and settlement; fees or duties or expenditure with respect to any of the above classes of matters.

.....

30. No bill, amendment, motion or resolution shall be introduced into or moved, and no discussions or other proceedings shall be permitted in the Majlis in respect of, or affecting, any of the following (and no laws framed by the Majlis shall in any way affect):

- (4) The relations of His Highness with the Crown of the United Kingdom or the Crown Representative or with any Government, State or Ruler, including any treaty, agreement, engagement or other instrument between His Highness and the Crown or any Government, State or Ruler.
- (5) Jagirs or unconditional Muafis.
- (6) His Highness' powers with respect to present and future grants of land or any other property.

.....

#### BUDGET

32. (b) Subject to the provisions of any rules which may be prescribed in this behalf, discussion of the Annual Financial Statement, and the moving of resolutions thereon, shall be permitted:

Provided that no discussion of, or resolutions respecting the "Annual Financial Statement" shall be allowed in the Majlis so far as the items mentioned in clause 30 of this Firman are concerned; nor will the items in the financial statement be votable.

## STATUTORY ADVISORY BOARDS

33. The following Advisory Boards shall be established, composed of official and non-official members, each nominated by His Highness, under the chairmanship of the Minister-in-Charge. All the non-official members of the Boards may not necessarily be from among the non-official members of the Majlis :

- (a) Board of industries ;
- (b) Board of public health ;
- (c) Board of education with sub-committees formed on the above lines to deal with :
  - (1) Primary education ;
  - (2) Secondary education ;
  - (3) Adult education ;
  - (4) Technical and industrial education ;
  - (5) Physical instruction ;
  - (6) Women's education ;
  - (7) Education of the depressed classes ;
- (d) Board of agriculture and irrigation ;
- (e) Development board ;
- (f) Rural uplift board ;

**Travancore****Rescript concerning Education, 1817<sup>1</sup>***(Extract)*

. . . the State should defray the entire cost of the education of its people in order that there might be no backwardness in the spread of enlightenment among them, that by diffusion of education they might become better subjects and public servants and that the reputation of the State might be advanced thereby.

**The Travancore Legislative Reforms Regulation,  
Regulation II of 1108<sup>2</sup>**

*28 October 1932*

Whereas it is Our intention to provide for the increasing association of Our people with Our Government in the administration of the State, and whereas in furtherance of this intention it is expedient to place the Travancore Sri Mulam Popular Assembly on a statutory basis with enlarged functions and powers and to amend the law relating to the Travancore Legislative Council in such manner that the Assembly and the Council shall function as two Chambers of a Legislature ; We are hereby pleased to enact as follows :

5. (1) The Travancore Sri Chitra State Council shall consist of members nominated and elected in accordance with rules made under this Regulation. . .

<sup>1</sup> *Travancore Administration Report, 1936-37, p. 197.*

<sup>2</sup> *The Regulations and Proclamations of Travancore, Vol. VII, 1105-1109 M.E., 1934.*

6. (1) The Assembly shall consist of members nominated and elected in accordance with rules made under this Regulation.

17. (1) It shall not be lawful for the Council or the Assembly to consider and enact any measure relating to or affecting:

.....

(b) The relations of Our Government with the Paramount Power or with Foreign Princes or States; or

(c) Matters governed by treaties, conventions or agreements now in force or hereafter to be made by Our Government with the Paramount Power; or

.....

18. It shall not be lawful for any member to introduce in either Chamber of the Legislature, without the previous sanction in writing of Our Dewan, any measure:

(a) Affecting the public revenues of the State or imposing any charge on such revenues; or

(b) Affecting the religion or the religious rites and usages of any class of Our subjects;

.....

28. (2) The Council and the Assembly may deal with the budget subject to such conditions and restrictions as to subjects and other matters as may be imposed by Our Government by rules made under this Regulation.

(4) The proposals of Our Government for the appropriation of revenue or moneys relating to the following heads of expenditure shall be submitted to the vote of the Assembly or the Council, nor, unless Our Dewan otherwise directs, shall they be open to discussion by either Chamber at the time when the budget is under consideration:

(a) Expenditure relating to any matter removed from the cognisance of either Chamber by section 17 of this Regulation;

(b) Expenditure which is obligatory under any law;

(c) Pensions and gratuities granted by Us or with Our sanction or under rules sanctioned by Us;

(d) Salaries and allowances of officers:

(i) Appointed by Us under Our Sign Manual; or

(ii) Whose appointments are specified in this behalf in the rules made under this Regulation;

(e) Interest on loans and sinking-fund charges;

(f) Contributions made by Us or with Our sanction; and

(g) Expenditure classified by Our Government as:

(i) Maramat; and

(ii) Political.

.....

(5) If any question arises whether any proposed appropriation of revenue or moneys does or does not relate to any matter not liable to be voted upon by the Legislature, the decision of Our Dewan shall be final.

.....

31. The demands as voted by the Assembly and the Council respectively, and the decision of the Joint Committee, if any, shall be submitted to Our Government and if Our Dewan declares that he is satisfied that any demand which has been refused by the Assembly, the Council or the Joint Committee is essential to the discharge of the responsibilities of Our Government, Our Government may act as if the demand has been assented to notwithstanding the withholding of such assent or the reduction of the amount therein referred to by the Assembly, the Council or the Joint Committee.

32. Notwithstanding anything contained in this Regulation, Our Dewan shall have power, in cases of emergency, to authorise such expenditure as may, in the opinion of Our Government, be necessary in the interest of Our Government or for the carrying on of any department or for the safety or tranquillity of Travancore or any part thereof.

## The Sri Chitra State Council Electoral Rules

### SCHEDULE II

.....

#### *Special Constituencies*

##### *2. Planters' constituency.*

10. A person shall be qualified as an elector for the planters' constituency if he is a member of any of the following associations :

- (1) The South Travancore Planters' Association.
- (2) The Central Travancore Planters' Association.
- (3) The Mundakayam Planters' Association.
- (4) The Kannan Devan Planters' Association.

Explanation: If a firm or other body of persons, as such, is a member of any of the above-mentioned associations, the person qualified shall be the individual nominated in that behalf by such firm or other body of persons.

##### *5. Commerce and industry constituencies.*

17. A person shall be qualified as an elector for a commerce and industry constituency, if he resides within that constituency and :

- (a) Is the owner of a factory, situated in Travancore which falls within the definition of a factory as defined in the Travancore Factories Regulation V of 1089, in which not less than 50 persons were simultaneously employed on any one day in the previous year ; or
- (b) Is a partner in a firm owning such a factory and has been nominated in writing by the firm for the purpose of voting in its behalf ; or
- (c) Is a director of a company as defined in section 2 of Regulation I of 1092 and having a place of business in Travancore and a paid-up capital of not less than twenty-five thousand rupees, and who has been nominated in writing for the purpose of voting in its behalf by a majority of the directors ; or
- (d) Is the principal officer of a company registered outside Travancore and having a place of business in Travancore and whose paid-up capital is not less than twenty-five thousand rupees ; or
- (e) Is a banker, trader or merchant who was assessed to income tax in the previous year in respect of a taxable income of five thousand rupees or more ; or
- (f) Is a partner or the principal officer of a firm which had a taxable income of five thousand rupees in the previous year, such partner or principal officer having been nominated in writing for the purpose of voting in its behalf.

Explanation: A single individual shall not be deemed a firm.

## The Sri Mulam Assembly Electoral Rules

### SCHEDULE II

. . . . .

#### *Special Constituencies*

1. *Planters' constituency.*

10. *Substantially identical with the corresponding provision of the Sri Chitra State Council Electoral Rules.*

3. *Commerce and industry constituencies.*

15. A person shall be qualified as an elector for a commerce and industry constituency, if he resides within that constituency and:

- (a) Is the owner of a factory, which falls within the definition of a factory as defined in the Travancore Factories Regulation V of 1089, which is situated in Travancore and in which work has been carried on during the previous year; or
- (b) Is a partner in a firm owning such a factory and has been nominated in writing by the firm for the purpose of voting in its behalf; or
- (c) Is a director of a company as defined in section 2 of Regulation I of 1092 and having a place of business in Travancore and a paid-up capital of not less than ten thousand rupees, and who has been nominated in writing for the purpose of voting in its behalf by a majority of the directors; or
- (d) Is the principal officer of a company registered outside Travancore and having a place of business in Travancore and whose paid-up capital is not less than ten thousand rupees; or
- (e) Is a banker, trader or merchant who was assessed to income tax in the previous year; or
- (f) Is a partner or the principal officer of a firm which was assessed to income tax in the previous year, such partner or principal officer having been nominated in writing for the purpose of voting in its behalf.

Explanation: A single individual shall not be deemed a firm.

### Temple Entry Proclamation of 27th of Tulam 1112<sup>1</sup>

*12 November 1936*

Profoundly convinced of the truth and validity of Our Religion, believing that it is based on divine guidance and on all-comprehending toleration, knowing that in its practice it has, throughout the centuries, adapted itself to the needs of changing times, solicitous that none of Our Hindu subjects should, by reason of birth or caste or community, be denied the consolations and solace of the Hindu faith, We have decided and hereby declare, ordain and command that, subject to such rules and conditions as may be laid down and imposed by Us for preserving their proper atmosphere and maintaining their rituals and observances, there should henceforth

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<sup>1</sup> *The Regulations and Proclamations of Travancore*, Vol. IX, 1937, p. 2 or *Travancore Administration Report*, 1936-37, p. 7.



be no restriction placed on any Hindu by birth or religion on entering or worshipping at the temples controlled by Us and Our Government.<sup>1</sup>

## Udaipur

### Orders by the Mewar Darbar Constituting a Central Advisory Board and District Advisory Boards

20 June 1939

#### CENTRAL ADVISORY BOARD

This will consist of a President appointed by the Mahekma Khas and 35 members of whom 12 will be officials and 23 non-officials as shown below :

Officials . . . . .	12
1. One of the judges of the Chief Court.	
2. Excise and Customs Commissioner.	
3. Director of Public Instruction.	
4. Agriculture Officer.	
5. General Manager Factories.	
6. Registrar Mahekma Khas.	
7. Registrar Mahendraj Sabha.	
8. Deputy Superintendent of Public Health.	
9. Additional Accountant General.	
10. Senior Assistant Mahekma Mal.	
11. Rural Development Officer.	
12. Publicity Officer.	
Non-officials . . . . .	23
Municipality Udaipur . . . . .	2
Members representing other interests . . . . .	5
(An attempt will be made to secure public opinion competent to deal with trade and commerce, education, medical relief, sanitation, public health and the bar.)	
District municipalities . . . . .	2
Sardars Chutbhaiyas Jagirdars and Maufidars . . . . .	6
Agriculturists . . . . .	4
Labour . . . . .	1
District Advisory Boards . . . . .	3

The non-official members shall be appointed by the Mahekma Khas on the recommendation of a committee consisting of the Revenue Commissioner, Excise and Customs Commissioner, and the General Manager Factories. . .

The proceedings of the meetings will be laid before the Mahekma Khas for such orders as may be deemed necessary.

<sup>1</sup> The significance of this Proclamation is described in the report in the following terms :

The Temple Entry Proclamation has been very widely acclaimed as the most beneficent and epoch-making reform introduced in Hindu society in modern times. It is bringing about a healthy upheaval in the religious and social life of a large section of His Highness's subjects. As a charter of their emancipation from the shackles of age-long tradition, the significance of the reform cannot be over-emphasised.

### DISTRICT ADVISORY BOARDS

These may be established at the headquarters of every Hakumat.

There are 17 Districts including Kachola. A District Advisory Board will consist of 8 members as shown below and will work under the presidentship of the Hakim:

1. Jagirdars and land-owning classes connected with the Districts . . . . .	2
2. Agricultural classes . . . . .	3
4. Labour . . . . .	1
3. Trade and commerce . . . . .	1
5. District Superintendent of Customs or the Circle Inspector . . . . .	1

The Hakim will make recommendations through the Committee consisting of the Revenue Commissioner, Excise and Customs Commissioner and the General Manager Factories to the Mahekma Khas and the latter will appoint members.

### FUNCTIONS OF THE BOARD

The functions of the Central and District Advisory Boards will be purely advisory. They will make suggestions and recommendations to the Mewar Government on social, commercial, rural, hygienic and educational matters and also advise on any matters referred to them by the Government. The activities of the Board for the time being will be restricted to the following subjects:

1. Education.
2. Sanitation.
3. Trade and commerce.
4. Development of industries.
5. Public health and medical relief.
6. Road development.
7. Economic well-being of agriculturists.
8. Social customs including social legislation.
9. Matters relating to Panchayats.
10. Matters relating to Advisory Boards.
11. Municipalities.
12. Cattle breeding and improvements of livestock.

The Boards will however not be competent to discuss budgets, appointments and constitution of any of these departments, nor any question of policy, nor matters relating to other departments nor those concerning State Administration.

. . . . .

### ANNEX TO INDIAN STATES

#### Draft Instrument of Accession to the Federation of India for Indian States<sup>1</sup>

Whereas proposals for the establishment of an Indian Federation, comprising such Indian States as may accede thereto and the Provinces of British India constituted as autonomous

<sup>1</sup> *British Parliamentary Papers*, Vol. XVI, 1934-1935, *Accounts and Papers*, Vol. V (Cmd. 4843), pp. 43-44.

Provinces, have been discussed between representatives of his Majesty's Government, of the Parliament of the United Kingdom, of British India and of the Princes and Rulers of the Indian States:

And whereas a Constitution for a Federation of India has been approved by Parliament and embodied in the Government of India Act, 1935, but it is by that Act provided that the Federation shall not be established until such date as His Majesty may by proclamation declare:

And whereas the Act cannot apply to any of the territories of *A.B.* save with his consent and concurrence:

And whereas *A.B.*, in the exercise of the sovereignty in and over *X*, in him vested, is desirous of acceding to the said Federation:

1. Now, therefore, *A.B.* hereby declares that, subject to His Majesty's assent, he accedes to the Federation, and subject always to the terms of this Instrument declares his acceptance of the provisions of the said Act as applicable to his State and to his subjects with the intent that His Majesty the King, the Governor-General of India, the Federal Legislature, the Federal Court and any other Federal authority established for the purposes of the Federation may exercise in relation to his State and to his subjects such functions as may be vested in them by or under the said Act, in so far as the exercise thereof is not inconsistent with any of the provisions of this Instrument.

2. And *A.B.* hereby declares that he accepts the matters specified in the First Schedule to this Instrument as the matters with respect to which the Federal Legislature shall have power to make laws in relation to his State and to his subjects, but subject in each case to the conditions and limitations, if any, set out in the said Schedule.

3. And *A.B.* hereby declares that he assumes the obligation of ensuring that due effect is given to the provisions of the said Act within the territories of his State, so far as they are applicable therein by virtue of this Instrument.

4. And *A.B.* hereby declares that the privileges and immunities, as defined in part VII of the said Act, which are enjoyed by his State, are those specified in the Third Schedule to this Instrument, that the annual values thereof, so far as they are not fluctuating or uncertain, are those specified in the said Schedule, and that he agrees that the values to be attributed to such of them as are fluctuating or uncertain in value shall be determined from time to time in accordance with the provisions of that Schedule.

5. And *A.B.* agrees that this Instrument shall be binding on him as from the date on which His Majesty signifies his acceptance thereof, provided that if the said Federation is not established before the                      day of                      nineteen hundred and thirty                      , this Instrument shall, on that day, become null and void for all purposes whatsoever.

6. And *A.B.* hereby declares that save as otherwise expressly provided in this Instrument he reserves the sovereignty in and over *X*, in him vested.

7. And *A.B.* hereby declares that he makes these declarations for himself, his heirs and successors, and that accordingly any reference in this Instrument to *A.B.*, is to be construed as including a reference to his heirs and successors.

#### SCHEDULES

Note: The following article is intended for inclusion in the Instrument only in the case of States in respect of which provision is made in the Instrument for an agreement as contemplated in clause 124 of the bill.

And whereas *A.B.* is desirous that functions in relation to the administration in his State of laws of the Federal Legislature applying therein shall be exercised by himself and by his officers, and the terms of an agreement in that behalf have been mutually agreed between *A.B.* and the Governor-General and are set out in the second Schedule to this Instrument:

Now, therefore, *A.B.* hereby declares that he accedes to the Federation on the assurance that the said Agreement will be executed and the Agreement, when executed, shall be deemed to form part of the Instrument and shall be construed therewith.

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## INDO-CHINA

### Decree concerning the Attributions of the Governor-General<sup>1</sup>

*20 October 1911*

. . . . .

### Decree concerning the Composition and Functions of the Government Council<sup>2</sup>

*20 October 1911, as Amended 4 November 1928*

4. The Governor-General of French Indo-China determines in the Government Council the general budget, the local budgets and the annexed budgets, together with the accounts of the administration; he determines the contributions and subventions for the different countries of the Union; he approves under the same conditions the method of assessment of taxation and the rules for the collection and apportionment of duties levied under the general budget, the local budgets and the annexes to the budget in French Indo-China, subject to the powers vested in the Grand Council of the Economic and Financial Interests of Indo-China and in the Colonial Council of Cochin-China.

5. The Government Council gives its opinion on all questions concerning French Indo-China which are submitted for its examination by the Governor-General. It is compulsorily consulted regarding all loans to be raised.

### Decree concerning the Functions of the Government Authorities in the Different Countries Constituting the Indo-Chinese Union<sup>3</sup>

*20 October 1911*

1. The different countries constituting the general government of French Indo-China possess administrative authority within the limits determined hereafter.

. . . . .

3. The Superior Residents in Annam, Tonkin, Cambodia and Laos exercise in relation to the indigenous sovereigns and authorities by delegation from the Government General the powers conferred on the Representative of the French Republic by treaties and conventions.

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<sup>1</sup> *Journal officiel de la République française*, 21 Oct. 1911, p. 8437.

<sup>2</sup> *Ibid.*, 21 Oct. 1911, pp. 8437-8438 and 8 Nov. 1928, p. 11869.

<sup>3</sup> *Ibid.*, 21 Oct. 1911, p. 8438.

4. The Governor of Cochin-China and the Superior Residents of Annam, Tonkin and Cambodia are assisted by a Privy Council or Protectorate Council composed as follows :

. . . . .

6. The Privy and Protectorate Councils shall meet on the convocation of the Governor or Superior Resident.

They must be consulted :

- (1) On the establishment of the budgets and accounts ;
- (2) On the method of assessment and rules for the collection and apportionment of the duties to be levied ;
- (4) On temporary or definitive alienations of the private or public domain ;
- (5) On all contracts and on adjudications for works and supplies exceeding 1,500 francs in value ;
- (6) On expropriations for reasons of public utility and on acquisitions of immovable property.

### Decree concerning the Councils of French Economic and Financial Interests in Tonkin, Annam and Cambodia<sup>1</sup>

*4 November 1928*

#### I. ESTABLISHMENT OF COUNCILS OF FRENCH INTERESTS

1. There are established in Tonkin, in Annam and in Cambodia Councils of French Economic and Financial Interests the object of which is to assist the chiefs of the local administration in the study and adoption of all measures relating to the economic and financial life of the country of the Indo-China Union concerned.

. . . . .

#### III. ATTRIBUTIONS OF COUNCILS OF FRENCH INTERESTS

22. The Council of French Economic and Financial Interests must be consulted :

- (1) On the drafts of the ordinary and extraordinary local budgets and the annexes thereto, with the exception of the chapters concerning the expenses of the local government, required expenditure and special expenses ;
- (2) On the plans for public works provided for in the local budget ;
- (3) On loans to be contracted and the guarantees for such loans to be given from the resources of the local budget ;
- (6) On the creation, scale and mode of assessment of the direct taxes and rules alimentering the local budget ;
- (7) On the concession to private individuals, associations and companies of works of local interest ; and

In general, all questions submitted to them by the Superior Resident.

The Council shall name members to represent it in Local Concessions Committees.

<sup>1</sup> *Ibid.*, 8 Nov. 1928, p. 11867.

## Decree concerning the Grand Council of French Economic and Financial Interests of Indo-China<sup>1</sup>

### I. CONSTITUTION OF THE GRAND COUNCIL

1. A Grand Council of the Economic and Financial Interests of Indo-China is established. . .

2. The Grand Council of the Economic and Financial Interests of Indo-China consists of 28 French members and 23 indigenous members designated as specified in the present Decree.

3. The French members shall be:

#### (1) *For Cochín-China*

Three members of the Colonial Council.  
Two members of the Chamber of Commerce.  
Two members of the Chamber of Agriculture.

#### (2) *For Tonkin*

Three members of the Council of French Economic and Financial Interests of Tonkin.  
One member of the Chamber of Commerce of Hanoi.  
One member of the Chamber of Commerce of Haiphong.  
One member of the Chamber of Agriculture.

#### (3) *For Annam*

Two members of the Council of French Economic and Financial Interests of Annam.  
One member of the Chamber of Commerce and Agriculture of Central Annam.  
One member of the Chamber of Commerce and Agriculture of North Annam.

#### (4) *For Cambodia*

Two members of the Council of French Economic and Financial Interests of Cambodia.  
One member of the Mixed Chamber of Commerce and Agriculture.

#### (5) *For Laos*

One member of the Council of French Economic and Financial Interests of Laos.  
One member designated by the Chamber of Commerce and Agriculture.

So long as a Council of Economic and Financial Interests has not been constituted in Laos the Governor-General on the proposal of the Superior Resident of Laos will designate among the French industrial, commercial or agricultural notables the member who shall replace in the Grand Council the delegate provided for in question.

#### (6) *For all Indo-China*

Six members chosen by the Governor-General among the French notables of the Colony other than officials in active service.

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<sup>1</sup> *Journal officiel de la République française*, 8 Nov. 1928, pp. 11867-11869.

4. The indigenous members shall be :

(1) *For Cochín-China*

Three members of the Colonial Council.  
One member of the Chamber of Commerce.  
One member of the Chamber of Agriculture.

(2) *For Tonkin*

Three members of the Indigenous Chamber of Representatives of the people.  
One member designated by the indigenous members of the Tonkin Chambers of Commerce.  
One member of the Chamber of Agriculture.

(3) *For Annam*

Two members of the Indigenous Chamber of Representatives of the People.  
One member designated by the indigenous members of the Chambers of Commerce and Agriculture of Annam.

(4) *For Cambodia*

Two members of the Indigenous Advisory Chamber.  
One member of the Mixed Chamber of Commerce and Agriculture.

(5) *For Laos*

One member of the Indigenous Advisory Chamber.  
One member of the Mixed Chamber of Commerce and Agriculture.

(6) *For all Indo-China*

Five members chosen by the Governor-General among the indigenous notables of the Colony other than officials in active service.

### III. ATTRIBUTIONS OF THE GRAND COUNCIL

24. The Grand Council of the Economic and Financial Interests of Indo-China must be consulted :

- (1) On the drafts of the ordinary and extraordinary general budget and the annexes thereto and on the loans budget (with the exception of chapters dealing with required debts and special funds) ;
- (2) On the plans for public works provided for from the ordinary general budget and from the extraordinary general budget and the loans funds ;
- (5) On the acquisition, alienation and exchange of property of the Colony affecting the public service ;
- (6) On the concession to individuals, associations and companies of works to be executed with funds drawn from the general budget or with loan funds.

The Grand Council shall designate the members who shall represent it in the General Colonisation Commission.

The Grand Council must be consulted on any modification of the budget involving drawing upon the reserve fund or an increase in the total of the budgetary credits.

The Grand Council may also be consulted on all economic or financial questions on which the Governor-General specially desires to have its advice.

27. The Grand Council may express *vœux* and formulate desiderata on questions of an economic and financial character not provided for above.

At the beginning of the following session the Governor-General shall make known the effect given to such *vœux* by the Administration.

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### Decree concerning Domainial Concessions in Indo-China<sup>1</sup>

*4 November 1928*

.....

### **Annam**

#### Royal Ordinance concerning the Organisation of the Government of the Kingdom of Annam<sup>2</sup>

*27 September 1897*

.....

#### Royal Ordinance concerning the Institution of an Indigenous Advisory Assembly<sup>3</sup>

*19 March 1920*

.....

### **Cambodia**

#### Royal Ordinance concerning Reforms in the Administration of the Kingdom<sup>4</sup>

*11 July 1897*

11. Slavery is definitively abolished in our Kingdom.

Title VI of the Ordinance of 15 January 1877 for the redemption of insolvent

<sup>1</sup> *Journal officiel de la République française*, 8 Nov. 1928, pp. 11869-11872.

<sup>2</sup> D. GANTER: *Recueil de la législation en vigueur en Annam et au Tonkin*, supplement 1895-1899, p. 4 or *Gouvernement général de l'Indo-Chine, Recueil général de la législation et de la réglementation de l'Indo-Chine à jour au 31 décembre, 1925*, part 3, p. 46.

<sup>3</sup> French text in *Gouvernement général de l'Indo-Chine, Recueil général de la législation et de la réglementation de l'Indo-Chine à jour au 31 décembre, 1925*, part 3, pp. 122-124.

<sup>4</sup> *Recueil des actes du Gouvernement cambodgien*, 1912, pp. 7-8.



debtors shall be strictly applied and its provisions shall have force of law in legal proceedings.<sup>1</sup>

12. The Government reserves the right to alienate and grant all the free lands of the Kingdom.

Those who require or who are granted concessions of lands shall enjoy full and complete property in the lands sold or granted to them.

### Royal Ordinance concerning the Institution in Cambodia of an Indigenous Advisory Assembly<sup>2</sup>

18 March 1913

1. There is instituted in Cambodia an Advisory Indigenous Assembly called upon to give its opinion on all questions of a fiscal, administrative or economic character concerning the indigenous population of the Kingdom.

13. The Assembly must be consulted on the budget of receipts and on the estimates of expenditure included in titles III and IV of the local budget (expenditure of an economic and social character).<sup>3</sup>

### Laos

### Royal Ordinance Providing for the Organisation of the Council of the Kingdom of Luang-Prabang<sup>4</sup>

15 October 1927

.....

<sup>1</sup> Further legislation on this subject is contained in Royal Ordinance of 29 Dec. 1897, *idem*, 1920, p. 89.

<sup>2</sup> *Idem*, 1920, pp. 226-228 or French text in *Gouvernement général de l'Indo-Chine, Recueil général de la législation et de la réglementation de l'Indo-Chine à jour au 31 décembre, 1925*, part 3, pp. 68-69.

<sup>3</sup> *Idem*, 1920. Articles of this Ordinance other than those quoted were amended by Royal Ordinance No. 46, 10 July 1921, *idem*, 1st supplement, 1922, pp. 62-63. The administrative and judicial organisation of Cambodia is provided for by Royal Ordinance No. 102, 11 Dec. 1921, concerning the administrative organisation of the Provinces of Cambodia, *idem*, 1st supplement, 1922, pp. 99-102. Royal Ordinance No. 118, 14 Sept. 1922, concerning the judicial organisation of Cambodia, *idem*, 2nd supplement, 1924, pp. 82-98 and Royal Ordinance No. 119 of 15 Sept. 1922, concerning the statute of the administrative and judicial personnel of Cambodia, *idem*, 2nd supplement, 1924, pp. 99-134.

<sup>4</sup> French text in *Gouvernement général de l'Indo-Chine, Recueil général de la législation et de la réglementation de l'Indo-Chine*, supplement 1926-1927, part 3, pp. 1309-1310.

## Tonkin

### Royal Ordinance Providing for the Reorganisation of Native Administration in Tonkin<sup>1</sup>

7 June 1923

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## IRAN

### Rescript regarding the Establishment of a National Consultative Assembly<sup>2</sup>

5 August 1906

We have decided to institute in the Capital of Teheran a National Consultative Assembly, composed of representatives of the Princes, the Clergy, the Kajars, the Nobles, the Aristocracy, the landed proprietors, the merchants, and the trade guilds, elected by the classes above named so that the necessary assistance may be given in consultation on affairs of the State and Kingdom and on public affairs to our trusty Ministers in their endeavours to bring about reforms for the good and weal of Persia.

### The Persian Constitution<sup>3</sup>

30 December 1906

23. Without the approval of the National Assembly no concession whatever for the formation of companies or associations shall be granted by the Government.

24. Treaties, conventions, the granting of concessions, monopolies, either commercial, industrial or agricultural, whether the other party be a native or a foreigner, can only be done with the approval of the National Assembly. Treaties which it may be in the interests of the Government or nation to keep secret are excepted.

25. All Government loans of any nature whatsoever, whether internal or foreign, will be made with the knowledge and approval of the National Assembly.

26. The construction of railways or roads, whether the cost be defrayed by the Government, by associations or companies, whether native or foreign, can only be undertaken with the approval of the National Assembly.

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<sup>1</sup> French text in *Gouvernement général de l'Indo-Chine, Recueil général de la législation et de la réglementation de l'Indo-Chine à jour au 31 décembre, 1925*, part 3, pp. 183-188.

<sup>2</sup> English translation in *British and Foreign State Papers*, Vol. 101, 1907-1908, p. 526.

<sup>3</sup> English translation in *ibid.*, pp. 527-534.

Constitutional Law<sup>1</sup>

8 October 1907

## GENERAL

2. The National Assembly has been founded by the help of the Twelfth Inam, the bounty of His Islamic Majesty, the watchfulness of the Mujtehed and the common people. The laws passed by it must never to all ages be contrary to the sacred precepts of Islam and the laws laid down by the Prophet. It is obvious that the decision as to whether the laws passed by the Assembly are in opposition to the precepts of Islam rests with the Ulema. It is therefore officially decreed that for all ages a Committee composed of five persons, who shall be Mujtehed and religious doctors, and who also must be acquainted with the requirements of the times, shall be elected in the following manner: The Ulema and doctors of Islam who are recognised by the Shia as the centre of imitation shall make known to the National Assembly the names of twenty of the Ulema possessing the above-mentioned qualities. The National Assembly shall, by agreement on casting of lots, elect five of them or more, according to the requirements of the age, and admit them as members. This Committee shall discuss and thoroughly investigate the bills brought in by the National Assembly, and reject every one of these bills which is contrary to the sacred precepts of Islam, in order that it may not become law. The decision of this Committee is final.

This article will not be liable to change until the advent of the Twelfth Inam.

6. The life and property of foreigners resident in Persia are secured and guaranteed except in those cases in which the laws of the realm make exceptions.

8. The people of Persia enjoy equality of rights before the civil law.

9. The life, property, domicile, and honour of every individual is secured and guaranteed from every kind of injury. No one can be disturbed except by order of, and in the manner defined by, the laws of the land.

15. No owner can be deprived of his land except by sanction of the Sheri, and even then only after the fixing and payment of a just price.

16. The sequestration of the estates or property of anyone as a penal measure is forbidden except by order of law.

17. It is forbidden to deprive landowners or possessors of the estates or property in their possession, on no matter what ground, except by order of law.

18. The study or teaching of arts, letters and sciences are free, except in so far as they are forbidden by the Sheri.

19. The foundation of schools at the expense of the State and the people, and compulsory education, must be in accordance with the law of the Ministry of Education. All primary and secondary schools must be under the direction and surveillance of the Ministry of Education.

20. All publications, except heretical works containing matter harmful to the religion of Islam, are free and it is forbidden to make distinction between them. Whenever anything contrary to the Law of Publications is found in them, the publisher or author will be punished in accordance with that law. If the author is well known and resident in Persia, the publisher, the printer, and the distributor shall be secured from any action being brought against them.

21. Societies and Associations which do not provoke religious or civil strife are free throughout the Realm; but their members must be unarmed and must obey the regulations which the law on this subject shall lay down. Meetings in the high roads or public squares must be held in accordance with the laws of the police.

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<sup>1</sup> English translation from *British and Foreign State Papers*, Vol. 101, 1907-1908, pp. 534-542.

## IRAQ

### Constitution of Iraq<sup>1</sup>

*10 July 1924, as Amended 29 July 1925*

#### PART I. THE RIGHTS OF THE PEOPLE

6. There shall be no differentiation in the rights of Iraqis before the law, whatever differences may exist in language, race or creed.

7. There shall be no violation of, or interference with, the personal liberty of any of the inhabitants of Iraq. . .

10. All rights of ownership shall be safeguarded. No forced loans may be imposed, nor may any real or personal property be sequestered, nor any prohibited articles confiscated, except in conformity with law. All unpaid forced labour and general confiscation of movable or immovable property are absolutely forbidden. There shall be no expropriation of the property of any person except in the public interest, and in such circumstances and in such manner as may be prescribed by law, and on condition that just compensation be paid.

12. Freedom of expression of opinion, liberty of publication, of meeting together, and of forming and joining associations is guaranteed to all Iraqis within such limits as may be prescribed by law.

14. All Iraqis shall have the right of presenting petitions and memorials to the King, Parliament and the public authorities, setting forth complaints, whether relating to matters where they are personally concerned, or to matters of public interest in such circumstances and in such manner as may be prescribed by law.

16. The various communities shall have the right of establishing and maintaining schools for the instruction of their members in their own tongue, provided that such instruction is carried out in conformity with such general programmes as may be prescribed by law.

18. Iraqis shall be equal in status as regards the enjoyment of their rights and the discharge of their obligations. Government appointments shall be bestowed upon them alone, to each one without discrimination, in accordance with his capacity and fitness. No persons other than Iraqis shall be employed in Government appointments, except in such exceptional circumstances as may be prescribed by a special law. Foreigners who must or may be employed in accordance with treaties and agreements shall not come within the scope of this article.

#### PART VI. FINANCIAL MATTERS

91. No taxes shall be imposed except in accordance with a law confirmed by the King after approval by Parliament; provided that this shall not apply to sums of money received by Government Departments in return for public services rendered, or for the enjoyment of Government property.

93. No property of the State may be sold, granted, leased or otherwise disposed of except in accordance with law.

94. No monopoly or concession shall be granted for dealing with or using any of the natural resources of the land, or for any public service, nor shall the

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<sup>1</sup> English translation from LEAGUE OF NATIONS: *Official Journal*, 1929, pp. 801-817.

State revenues be farmed out, except in accordance with law, provided that, where the period relating to them exceeds three years, they must in each case be the subject of a special law.

95. The Government may not contract any loan, nor undertake anything involving payment out of public monies, except in accordance with a special law, unless the Budget Law makes provision therefor.

108. The currency system of the State shall be established by law.

## Declaration by the Kingdom of Iraq<sup>1</sup>

30 May 1932

### CHAPTER I. PROTECTION OF MINORITIES

1. The stipulations contained in the present chapter are recognised as fundamental laws of Iraq, and no law, regulation or official action shall conflict or interfere with these stipulations, nor shall any law, regulation, or official action now or in the future prevail over them.

2. (1) Full and complete protection of life and liberty will be assured to all inhabitants of Iraq without distinction of birth, nationality, language, race or religion.

(2) All inhabitants of Iraq will be entitled to the free exercise, whether public or private, of any creed, religion or belief, whose practices are not inconsistent with public order or public morals.

4. (1) All Iraqi nationals shall be equal before the law and shall enjoy the same civil and political rights without distinction as to race, language or religion.

(3) Differences of race, language or religion shall not prejudice any Iraqi national in matters relating to the enjoyment of civil or political rights, as, for instance, admission to public employments, functions and honours, or the exercise of professions or industries.

5. Iraqi nationals who belong to racial, religious or linguistic minorities will enjoy the same treatment and security in law and in fact as other Iraqi nationals. In particular, they shall have an equal right to maintain, manage and control at their own expense, or to establish in the future, charitable, religious and social institutions, schools and other educational establishments, with the right to use their own language and to exercise their religion freely therein.

8. (1) In the public educational system in towns and districts in which are resident a considerable proportion of Iraqi nationals whose mother tongue is not the official language, the Iraqi Government will make provision for adequate facilities for ensuring that in the primary schools instruction shall be given to the children of such nationals through the medium of their own language; it being understood that this provision does not prevent the Iraqi Government from making the teaching of Arabic obligatory in the said schools.

(2) In towns and districts where there is a considerable proportion of Iraqi nationals belonging to racial, religious or linguistic minorities, these minorities will be assured an equitable share in the enjoyment and application of sums which may be provided out of public funds under the State, municipal or other budgets for educational, religious or charitable purposes.

10. The stipulations of the foregoing articles of this Declaration, so far as they affect persons belonging to racial, religious or linguistic minorities, are declared to constitute obligations of international concern and will be placed under

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<sup>1</sup> Text from HUDSON: *International Legislation*, Vol. VI, 1932-1934, pp. 39-47.

the guarantee of the League of Nations. No modification will be made in them without the assent of a majority of the Council of the League of Nations.

Any Member of the League represented on the Council shall have the right to bring to the attention of the Council any infraction or danger of infraction of any of these stipulations, and the Council may thereupon take such measures and give such directions as it may deem proper and effective in the circumstances.

Any difference of opinion as to questions of law or fact arising out of these articles between Iraq and any Member of the League represented on the Council shall be held to be a dispute of an international character under article 14 of the Covenant of the League of Nations. Any such dispute shall, if the other party thereto demands, be referred to the Permanent Court of International Justice. The decision of the Permanent Court shall be final and shall have the same force and effect as an award under article 13 of the Covenant.

## CHAPTER II. MOST-FAVOURED-NATION CLAUSE

11. (1) Subject to reciprocity, Iraq undertakes to grant to Members of the League most-favoured-nation treatment for a period of ten years from the date of its admission to membership of the League of Nations.

Nevertheless, should measures taken by any Member of the League of Nations, whether such measures are in force at the above-mentioned date or are taken during the period contemplated in the preceding paragraph, be of such a nature as to disturb to the detriment of Iraq the balance of trade between Iraq and the Member of the League of Nations in question, by seriously affecting the chief exports of Iraq, the latter, in view of its special situation, reserves to itself the right to request the Member of the League of Nations concerned to open negotiations immediately for the purpose of restoring the balance.

Should an agreement not be reached by negotiation within three months from its request, Iraq declares that it will consider itself as freed, *vis-à-vis* of the Member of the League in question, from the obligation laid down in the first subparagraph above.

(2) The undertaking contained in paragraph 1 above shall not apply to any advantages which are, or may in the future be, accorded by Iraq to any adjacent country in order to facilitate frontier traffic, or to those resulting from a customs union concluded by Iraq. Nor shall the undertaking apply to any special advantages in customs matters which Iraq may grant to goods the produce or manufacture of Turkey or of any country whose territory was in 1914 wholly included in the Ottoman Empire in Asia.

### *International Conventions*

13. Iraq considers itself bound by all the international agreements and conventions, both general and special, to which it has become a party, whether by its own action or by that of the Mandatory Power acting on its behalf. Subject to any right of denunciation provided for therein, such agreements and conventions shall be respected by Iraq throughout the period for which they were concluded.

### *Acquired Rights and Financial Obligations*

14. Iraq, taking note of the resolution of the Council of the League of Nations of September 15th, 1925:

(1) Declares that all rights of whatever nature acquired before the termination of the mandatory régime by individuals, associations or juridical persons shall be respected.

(2) Undertakes to respect and fulfil all financial obligations of whatever nature assumed on Iraq's behalf by the Mandatory Power during the period of the Mandate.

### *Freedom of Conscience*

15. Subject to such measures as may be essential for the maintenance of public order and morality, Iraq undertakes to ensure and guarantee throughout its territory freedom of conscience and worship and the free exercise of the religious, educational and medical activities of religious missions of all denominations, whatever the nationality of those missions or of their members.

### *Final Clause*

16. The provisions of the present chapter constitute obligations of international concern. Any Member of the League of Nations may call the attention of the Council to any infraction of these provisions. They may not be modified except by agreement between Iraq and the Council of the League of Nations acting by a majority vote.

Any difference of opinion which may arise between Iraq and any Member of the League of Nations represented on the Council, with regard to the interpretation or the execution of the said provisions, shall, by an application by such Member, be submitted for decision to the Permanent Court of International Justice.

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## JAPAN

### The Constitution of the Empire of Japan<sup>1</sup>

*11 February 1889*

#### CHAPTER II. RIGHTS AND DUTIES OF SUBJECTS

XXVII. The right of property of every Japanese subject shall remain inviolate.

Measures necessary to be taken for the public benefit shall be provided for by law.

XXVIII. Japanese subjects shall, within limits not prejudicial to peace and order, and not antagonistic to their duties as subjects, enjoy freedom of religious belief.

XXIX. Japanese subjects shall, within the limits of law, enjoy the liberty of speech, writing, publication, public meetings and associations.

XXX. Japanese subjects may present petitions, by observing the proper forms of respect, and by complying with the rules specially provided for the same.

XXXI. The provisions contained in the present chapter shall not affect the

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<sup>1</sup>Text of English translation as in Ho Hirobumi: *Commentaries on the Constitution of the Empire of Japan*, translated by Ho MUYOJI (2nd edition, Tokyo, 1906) as reproduced in Harold S. QUIGLEY: *Japanese Government and Politics*, 1932, pp. 337-338.

exercise of the powers appertaining to the Emperor, in times of war or in cases of a national emergency.

XXXII. Each and every one of the provisions contained in the preceding articles of the present chapter, that are not in conflict with the laws or the rules and discipline of the army and navy, shall apply to the officers and men of the army and of the navy.

## KOREA

### Treaty of Seoul between Japan and Korea of 22 August 1910 Providing for the Annexation of Korea to Japan<sup>1</sup>

6. In consequence of the aforesaid annexation, the Government of Japan assume the entire government and administration of Korea, and undertake to afford full protection for the persons and property of Koreans obeying the laws there in force, and to promote the welfare of all such Koreans.

### Proclamation by the Governor-General of Korea of the Annexation of Korea by Japan<sup>2</sup>

29 August 1910

The fundamental object of administration is to promote the security of life and property, whereon depends the general industrial development of a nation.

Of all ills nothing is more painful than disease. In Chosen, the medical art has been in a primitive stage of progress and on this account many people are subject to untimely death. . . A large number of people have since received the blessing of advanced medical science from these institutions. . . To enable all the people of the country to share it in future, order has been issued for the establishment of a charity hospital in every province, which will be provided with an efficient staff and plenty of good medicines.

The education of the rising generation is the most important factor for ensuring the steady progress of a country along the path of civilisation. Their education must aim at promoting their intellect and enhancing their normal character, so that they may become good and useful citizens. But hitherto many young men of this country have been misled by erroneous methods of education into disliking work and indulging in useless and empty talk. In future attention should be paid to the removal of this evil as well as to instilling in the minds of young men the detestation of idleness and love of real work, thrift and diligence.

The freedom of religious belief is recognised in all civilised countries. There is indeed nothing to be said against anybody trying to gain spiritual peace by believing in whatever religious faith he or she considers to be true. But those who engage in strife on account of sectarian differences, or take part in politics or pursue political intrigues under the name of religious propaganda, will injure good customs and manners and disturb public peace and order, and as such shall be dealt with by law. There is no doubt, however, that a good religion, be it either Buddhism, or Confucianism or Christianity, has as its aim the improvement, spiritual as well as material, of mankind at large, and in this not only does it not conflict with administration, but really helps it in attaining the purpose it has in view. Consequently all religions should be treated equally, and further due protection and facilities should be accorded to their legitimate propagation.

<sup>1</sup> *British and Foreign State Papers*, Vol. 103, 1909-1910, pp. 992-993.

<sup>2</sup> *Ibid.*, Vol. 105, 1912, pp. 683-686.



Japanese Imperial Ordinance No. 354 Making Regulations  
for the Organisation of the Government of Chosen<sup>1</sup>

*30 September 1910*

9. The Government of Chosen shall include the Secretariat and the following five Departments:

.....

The Department of Home Affairs.

.....

The Department of Agriculture, Commerce and Industry.

.....

10. The Department of Home Affairs shall contain a Local Affairs Bureau and an Educational Bureau . . . The Department of Agriculture, Commerce and Industry shall contain a Products Bureau and a Commercial and Industrial Bureau.

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**KWANTUNG**

Ordinance concerning the Organisation of the  
Government of Kwantung<sup>2</sup>

*12 April 1919*

2. The Governor-General shall exercise jurisdiction over Kwantung Province and shall have control of the protection and supervision of the railway lines in South Manchuria, and shall have charge of the operation of the South Manchuria Railway Company.

15. ....

The Government of Kwantung shall have an adviser for communications. This position shall be filled by the President of the South Manchuria Railway Company.

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<sup>1</sup> *Ibid.*, pp. 698-701.

<sup>2</sup> English translation from John V. A. MACMURRAY: *Treaties and Agreements with and concerning China 1894-1919*, Vol. 1, pp. 569-571. See also C. W. YOUNG: *The International Legal Status of the Kwantung Leased Territory*.

## MACAO

*See Portuguese Colonies, pp. 686-693.*

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## MALAYA

### STRAITS SETTLEMENTS

Letters Patent Constituting the Office of Governor  
and Commander-in-Chief<sup>1</sup>

*17 February 1911*

XIII. *Substantially identical with Cyprus Letters Patent, p. 43.*

Royal Instructions to the Governor and Commander-in-Chief<sup>2</sup>

*18 August 1924*

15. The Legislative Council of our Settlements shall consist of the Governor as president, eleven *ex officio* members, two official members, two elected unofficial members and eleven nominated unofficial members.

18. The unofficial members of the Legislative Council shall be British subjects not holding office in the public service of our Settlements, and shall consist of seven European members, of whom two shall be elected and five shall be nominated, as hereinafter provided; and further of three Chinese members, one British Indian member, one representative of the Malay race, and one Eurasian member, all of whom shall be nominated as hereinafter provided.

19. Of the European elected unofficial members: — One shall be elected by British members of the Chamber of Commerce, Singapore, under such rules as may be promulgated by the said Chamber of Commerce with the approval of the Governor. One shall be elected by the British members of the Chamber of Commerce of Penang under such rules as may be promulgated by the said Chamber of Commerce with the approval of the Governor. . .

41. *Substantially identical with Bahamas Royal Instructions, paragraph 21, p. 289, but omitting clause 3.*

42. *Substantially identical with British Guiana Royal Instructions, paragraph 14, p. 292.*

45. *Substantially identical with Bahamas Royal Instructions, paragraph 27, p. 290.*

50. *Substantially identical with Bahamas Royal Instructions, paragraph 30, p. 290.*

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<sup>1</sup> Text from *Statutory Rules and Orders*, 1911, pp. 459-464.

<sup>2</sup> *Constitutions of All Countries*, Vol. I, pp. 504-508.

## FEDERATED MALAY STATES

Agreement between the Governor of the Straits Settlements, Acting on behalf of the Government of Her Majesty the Queen, Empress of India, and the Rulers of the following Malay States: — that is to say Perak, Selangor, Pahang and the Negri Sembilan<sup>1</sup>

*July 1895*

1. In confirmation of various previous agreements, the Sultan of Perak, the Sultan of Selangor, the Sultan of Pahang, and the Chiefs of the States which form the territory known as the Negri Sembilan, hereby severally place themselves and their States under the protection of the British Government.

2. The above-named Rulers and Chiefs of the respective States hereby agree to constitute their countries a Federation, to be known as the Protected Malay States to be administered under the advice of the British Government.

3. It is to be understood that the arrangement hereby agreed upon does not imply that any one Ruler or Chief shall exercise any power or authority in respect of any State other than that which he now possesses in the State of which he is the recognised Ruler or Chief.

4. The above-named Rulers agree to accept a British Officer, to be styled the Resident-General, as the agent and representative of the British Government under the Governor of the Straits Settlements. They undertake to provide him with suitable accommodation, with such salary as is determined by Her Majesty's Government, and to follow his advice in all matters of administration other than those touching the Muhammedan religion. The appointment of the Resident-General will not affect the obligations of the Malay Rulers towards the British Residents now existing or to be hereafter appointed to offices in the above-mentioned Protected States.

5. . . . .

Nothing in this agreement is intended to curtail any of the powers or authority now held by any of the above-mentioned Rulers in their respective States, nor does it alter the relations now existing between any of the States named and the British Empire.

Agreement for the Reconstruction of the Federal Council<sup>2</sup>

*Kuala Lumpur, 24 April 1927*

Whereas an agreement was entered into between the High Commissioner for the Malay States, acting on behalf of the Government of His Majesty the King, Emperor of India, and the Rulers of the Federated Malay States of Perak, Selangor, Negri Sembilan and Pahang, and executed by the High Commissioner on the 20th day of October, 1909, having been executed before that date by the said Rulers, whereby it was agreed that a Council should be established to be known as "The Federal Council of the Federated Malay States":

And whereas the Federal Council was duly established accordingly:

And whereas the constitution of the said Council was varied by two sup-

<sup>1</sup> Text from W. G. MAXWELL and W. S. GIBSON: *Treaties and Engagements affecting the Malay States and Borneo*, London, 1924, pp. 70-71.

<sup>2</sup> *Constitutions of All Countries*, Vol. I, pp. 508-511.

plemental agreements entered into between the same parties and executed by the High Commissioner on the 7th day of November, 1912, and the 9th day of July, 1924, respectively, having in each case been executed by the Rulers before the said date:

And whereas the parties to the hereinbefore recited agreements desire to reconstitute the Federal Council and to define more clearly its powers and duties:

It is hereby agreed by and between the said parties as follows:

1. From the date of the execution of this agreement the following shall be members of the Federal Council:

The High Commissioner.  
 The Chief Secretary to Government.  
 The Resident of Perak.  
 The Resident of Selangor.  
 The Resident of Negri Sembilan.  
 The Resident of Pahang.  
 The Legal Adviser.  
 The Financial Adviser.  
 The Principal Medical Officer.  
 The Controller of Labour.  
 The Director of Public Works.  
 The Director of Education.

One other official to be nominated by the High Commissioner.

Eleven unofficial members to be nominated by the High Commissioner with the approval of His Majesty. At least four of such unofficial members shall, if possible, be Malays, selected one from each of the States.

5. The High Commissioner shall be president of the Council and in his absence the Chief Secretary shall be president. In the case of an equality of votes the president shall have an additional or casting vote.

7. Suitable accommodation shall be provided at every meeting of the Council for any of the Rulers who may have signified their intention of being present.

9. The Council shall meet at least once in every year at a place to be appointed from time to time by the High Commissioner.

10. The Council shall pass all laws intended to have force throughout the Federation. Laws passed by the Council shall be enacted in the following words: "It is hereby enacted by the Rulers of the Federated Malay States, by and with the advice and consent of the Federal Council", and shall be signed by each of the Rulers before coming into force, provided that the Yang di per Tuan Besar of the Negri Sembilan shall sign on behalf of the Undang of the Negri Sembilan.

11. Any law passed or which may hereafter be passed by a State Council shall continue to have full force and effect in such State except in so far as it may be repugnant to the provisions of any law passed by the Federal Council.

12. Estimates of revenue shall be submitted to the Council and all expenditure shall be sanctioned by the Council by resolution or supply bill; provided that the Council may by resolution allocate to each State every year a lump sum to be expended without further reference to the Council on such services as the Council may from time to time determine.

13. Subject to the provisions of article 12 questions connected with the Mohammedan religion, mosques, political pensions, native Chiefs and Penghulus and any other questions which in the opinion of the High Commissioner affect the rights and prerogatives of any of the Rulers or which for other reasons he considers should properly be dealt with only by the State Councils, shall be exclusively reserved to the State Councils.

14. Nothing in this agreement shall affect the validity of any act done or law passed by the Federal Council as constituted before the execution of this agreement.

15. Nothing in this agreement is intended to curtail any of the powers or authority now held by any of the Rulers in their respective States, nor does it alter the relations now existing between any of the States named and the British Empire as established by previous treaties.

## Perak

Engagement Entered into by the Chiefs of Perak at Pulo Pangkor<sup>1</sup>

*20 January 1874*

Whereas, a state of anarchy exists in the Kingdom of Perak owing to the want of settled government in the Country, and no efficient power exists for the protection of the people and for securing to them the fruits of their industry, and,

Whereas large numbers of Chinese are employed and large sums of money invested in tin mining in Perak by British subjects and others residing in Her Majesty's Possessions, and the said mines and property are not adequately protected, and piracy, murder and arson are rife in the said Country, whereby British trade and interests greatly suffer, and the peace and good order of the neighbouring British settlements are sometimes menaced, and,

Whereas, Her Majesty's Government is bound by Treaty Stipulations to protect the said Kingdom and to assist its Rulers, now,

His Excellency, Sir Andrew Clarke, K.C.M.G., C.B., Governor of the Colony of the Straits Settlements, in compliance with the said request, and with a view of assisting the said Rulers and of affecting a permanent settlement of affairs in Perak, has proposed the following articles of arrangements as mutually beneficial to the Independent Rulers of Perak, their subjects, the subjects of Her Majesty, and others residing in or trading with Perak, that is to say:

- V. That all Revenues be collected and all appointments made in the name of the Sultan.
- VI. That the Sultan receive and provide a suitable residence for a British Officer to be called Resident, who shall be accredited to his Court, and whose advice must be asked and acted upon on all questions other than those touching Malay religion and custom.
- VIII. That the cost of these Residents with their Establishments be determined by the Government of the Straits Settlements and be a just charge on the Revenues of Perak.
- IX. That a Civil List regulating the income to be received by the Sultan, by the Bandahara, by the Montri and by the other Officers be the next charge on the said Revenue.
- X. That the collection and control of all Revenues and the general administration of the country be regulated under the advice of these Residents.
- XIII. That on the cessation of the present disturbances in Perak and the re-establishment of peace and amity among the contending factions in that country, immediate measures under the control and supervision of one or more British Officers shall be taken for restoring as far as practicable the occupation of all the mines, and the possession of machinery, etc., as held

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<sup>1</sup> MAXWELL: *op. cit.*, pp. 28-30.

previous to the commencement of these disturbances, and for the payment of compensation for damages, the decision of such Officer or Officers shall be final in such case.

### Selangor

*The status of Selangor is governed by treaties between the Rajah of Selangor and the East India Company of 22 August 1818 and 20 August 1825 and by letters from the Sultan of Selangor to the Governor of the Straits Settlements of 26 November 1860 and 1 October 1874.<sup>1</sup>*

### Negri Sembilan

Agreement Entered into by Certain Chiefs of the Nine States<sup>2</sup>

*23 November 1876*

We, the undersigned, have appeared before His Excellency the Governor of the Straits Settlements, with a view to making an agreement for securing the peace and tranquillity of the countries over which we govern, or which we represent. We give this paper as token of our good faith, and promise as follows:

4. We promise that peaceful persons, whether Malays or Chinese or others, desirous of trading in our countries shall have full liberty to do so, and shall be unmolested.

Agreement between the Governor of the Straits Settlements and Sri Menanti with the Consent of (or in Conjunction with) Johol, Imas, Moar, Jempal, Terâchi and Gunong Pasir<sup>3</sup>

*4 June 1887*

1. The two Governments will, at all times, cordially co-operate in the settlement of a peaceful population in their respective neighbouring territories, and in the preservation of peace and settled Government in those territories and in the mutual surrender of persons accused or convicted of any crime or offence under such conditions as may be arranged between the two Governments.

2. His Highness the Yam Tuan of Sri Menanti and the Datoh Penghulu of such of the States before named as may be concerned undertake, if requested by the Governor of the Straits Settlements, to co-operate in making arrangements for facilitating trade and communications overland through their States.

<sup>1</sup> MAXWELL: *op. cit.*, pp. 30-36.

<sup>2</sup> *Ibid.*, pp. 60-61.

<sup>3</sup> *Ibid.*, pp. 61-62.

3. It is further agreed by His Highness the Yam Tuan of Sri Menanti and the Datoh Penghulu of the States above named that should there be occasion for any arrangement or correspondence with any foreign State, it shall be conducted through the Governor of the Straits Settlements and that no grant or concessions shall be made to other than British Companies or persons of the Malay, Chinese, Indian or other Oriental races, not being subjects of any non-Oriental nations, without the assent of the Governor of the Straits Settlements.

Agreement between the Governor of the Straits Settlements Acting on behalf of Her Majesty's Government and the Rulers of Certain Malay States hereinafter Called the Negri Sembilan<sup>1</sup>

*13 July 1889*

*Subsequently amplified by Agreement of 8 August 1895, below.*

Agreement between the Governor of the Straits Settlements Acting on behalf of Her Majesty's Government and the Rulers of Certain Malay States hereinafter Called the Negri Sembilan<sup>2</sup>

*8 August 1895*

In confirmation of various previous written and unwritten agreements the Yam Tuan Besar of Sri Menanti together with the Ruler of Johol, the Rulers of Sungei Ujong, Jelebu, Rembau and Tampin hereby severally place themselves and their States under the protection of the British Government.

2. The above-mentioned Rulers of the respective States agree to constitute their countries into a Confederation of States to be known as the Negri Sembilan, and they desire that they may have the assistance of a British Resident in the administration of the Government of the said Confederation and they undertake to follow his advice in all matters of administration other than those touching the Mohammedan religion.

3. It is to be understood that such arrangement as is now agreed upon does not imply that any one Ruler should exercise any other power or authority in respect of any State than that which he now possesses.

Agreement between the Yang Di Per Tuan Besar, Sri Menanti, and the Four Lawgivers<sup>3</sup>

*29 April 1898*

Now in all truth We, the Yang di per Tuan, Muhammed, C.M.G., the son of the late Yang di per Tuan Antah, have made an agreement with the Four Lawgivers.

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<sup>1</sup> *Ibid.*, p. 63.

<sup>2</sup> *Ibid.*, p. 64.

<sup>3</sup> *Ibid.*, pp. 65-66.

1. Whereas We and the Four Lawgivers and the British Resident have bound together the Constitution and Customs of the Country and the heritage of our ancestors of old time as is related hereunder:

2. Now the Four Lawgivers return to elect us to be Raja of the Negri Sembilan in accordance with our ancient Constitution.

3. Now that We have been installed as Raja of the Negri Sembilan, We, according to the old Constitution, cannot interfere in the Customs of the Country or in Mohammedan Law and every matter that arises in each State is to be settled in consultation with the British Resident of the Negri Sembilan and is not to be subject to Our Commands.

.....

## Pahang

### Agreement on Certain Points Touching the Relations of Her Majesty's Government of the Straits Settlements with the Government of the Independent State of Pahang<sup>1</sup>

8 October 1887

1. The two Governments will at all times cordially co-operate in the settlement of a peaceful population in their respective neighbouring territories, and in the joint defence of those territories from external hostile attack and in the mutual surrender of persons accused or convicted of any crime or offence under such conditions as may be arranged between the two Governments.

2. His Highness the Raja of Pahang undertakes if requested by the Government of the Straits Settlements to co-operate in making arrangements for facilitating trade and transit communication overland through the State of Pahang with the State of Johore and other neighbouring States.

3. If the Government of the Straits Settlements shall at any time desire to appoint a British Officer as Agent to live within the State of Pahang having functions similar to those of a Consular Officer, His Highness the Raja will be prepared to provide free of cost a suitable site within his territory whereon a residence may be erected for occupation by such Officer.

4. Any coinage in the currency of the Straits Settlements which may be required for the use of the Government of Pahang shall be supplied to it by the Government of the Straits Settlements at rates not higher than those at which similar coinage is supplied to the Governments of the Protected Malay States and under the same limitations as to amount.

His Highness the Raja on his part undertakes that the applications of His Government for subsidiary coinage shall be strictly limited by the legitimate requirements of the inhabitants of the State of Pahang and that the coinage so issued shall be subject to the same limitations as regards legal tender as are in force in the Straits Settlements.

6. The Raja of Pahang undertakes on his part that he will not without the knowledge and consent of Her Majesty's Government negotiate any Treaty or enter into any engagement with any foreign State, or interfere in the politics or

<sup>1</sup>MAXWELL: *op. cit.*, pp. 66-68.



administration of any native State, or make any grant or concession to other than British subjects or British companies or persons of the Chinese, Malay or other Oriental race, or enter into any political correspondence with any foreign State.

It is further agreed that if occasion should arise for political correspondence between His Highness the Raja and any foreign State, such correspondence shall be conducted through Her Majesty's Government, to whom His Highness makes over the guidance and control of his foreign relations.

## UNFEDERATED MALAY STATES

### Johore

#### The Constitution of the State of Johore<sup>1</sup>

*14 April 1895*

.....

#### THE LAW

##### *The Sovereign and Government*

XV. The Sovereign may not in any manner surrender or make any agreement or plan to surrender the Country or any part of the Country and State of Johore to any European State or Power, or to any other State or Nation, whether because he thinks it a trouble or a burden to him to be Ruler, or because he does not care to rule, or because he desires to obtain, take and accept any payment or pension from another Nation or State; and this prohibition and restraint are likewise laid and decreed on all and every one of the heirs and relatives of the Sovereign.

And if this prohibition and restraint be resisted, or an attempt made to resist them, by the Sovereign himself, he shall be treated as guilty of betraying the trust reposed in him by God, in which case the people of the country shall be under no obligation to continue any longer their allegiance to him; and if by a relative of the Sovereign, he shall be considered to have committed high treason against the Sovereign and the State, and shall be liable to any punishment which it may be deemed proper to award.

XVI. The Ministers and the Supporters of the Country likewise may not in any manner negotiate or make any agreement with any European or other Power or State with a view of ceding the Country and State of Johore. If they should transgress or make any attempt to transgress against this prohibition and restraint, they shall be amenable to the penalty incurred by persons guilty of high treason against the Sovereign and the State, and all such offenders may be punished with a punishment suitable to their crime.

<sup>1</sup> The Constitution of the State of Johore with supplements, Government Printing Office, Johore Bahru, 1931.

XXV. With regard to the Sovereign, who, by the Grace of God the Most High, and the blessing of the Prophet Mohammed — on whom be the benediction and peace of God — is still reigning . . . it is with the voluntary approval and consideration of Our Council of State determined that no fixed sum of money should be put aside for Our expenses on account of Our Royal Residences and for Our personal maintenance; but We do hereby make a firm and manifest Law and Regulation that, verily, with regard to the Sovereigns of Johore who *come* after us, they may not any one of them in any manner whatsoever take and appropriate for his own use one single *doit* more than the sum which shall be fixed from time to time by the Council of State. . .

#### *Council of Ministers*

XXX. The Ministers must be of the Malay nationality and Johore subjects, and of the Mohammedan Religion. . .

#### *Council of State*

XLV. The general assistants of the State are styled the Council of State, and the Members of the same shall be the Ministers and other Principal Officers and Elders of the State appointed from time to time by the Sovereign with the advice of the Council of Ministers.

XLVII. It is not necessary that the Members of the Council of State should all be of the Malay nationality or of the Mohammedan Religion, but it is necessary that they should all be Johore subjects.

XLVIII. Every Member of the Council of State, on being admitted shall take the Oath of Allegiance to the Sovereign and the State, and shall declare that he will give every advice, opinion and suggestion, with an upright heart and with good intentions for the welfare and advantage of the country and people.

XLIX. The duties of the Council of State are principally to aid the Sovereign and the Council of Ministers in matters concerning the good government of the country and people, to wit, in making, creating, revising, enlarging, or amending the laws and regulations of every description, except the laws of religion and the Mohammedan Law, and in considering the question of opening up the country and promoting its public works, and in presenting good schemes for increasing the revenue, developing trade, ameliorating the condition of the people, and in giving advice in regard to the maintenance of public security within the State and Territory and Dependencies of Johore and the conservation of friendly relations and peace with foreign States.

#### *Miscellaneous Memoranda*

LVII. What is called the "Religion of the State" for this Territory and State of Johore is the Mohammedan Religion, and such being the case, the Mohammedan Religion shall continuously and for ever be, and be acknowledged to be, and spoken of as, the "State Religion"; that is to say, on no account may any other religion be made or spoken of as the religion of the country, although all other religions are allowed, and are always understood as proper to be allowed, to be practised in peace and harmony by the people professing them in all and every part of the Territory and Dependencies of the State of Johore.

LVIII. All the laws and customs of the country shall be carried out and exercised with justice and fairness by all the Courts of Justice and by all Officers and Servants of the State between all the people of the country and the aliens who sojourn and reside under its protection, whether for a season or for a lengthened period, that is to say, without their entertaining in the least degree

more sympathy or regard or partiality towards those who profess the religion of the country, namely the Mohammedan Religion, or making any difference between those who are the subjects of the State and those who are not.

LIX. The Sovereign and the Government of Johore shall always and permanently remain in a state and condition of amity and good understanding with other States, and especially and particularly with the British or English Nation and Government.

LX. So long as there is no actual and evident act of great and wicked injustice on the part of the nations and States under Treaties with the State of Johore, and no acts on their part which in an arbitrary or unfeeling manner cause a breach of the Agreement or Agreements, the Sovereign and the Government of Johore shall always, continuously, obediently, faithfully and uprightly observe and fulfil the terms of the Agreements or Treaties which have already been made or shall hereafter be made with foreign States.

## Supplement to the Constitution of the State of Johore

*22 April 1908*

1. No person can be deprived of his liberty, detained, or imprisoned, except in due course of law, not even by the Sultan himself. The freedom and liberty of all persons, who are not restrained by just and impartial action of the law is the basis of all good government.

2. It is absolutely necessary for the due course of justice and for the protection of every man's life, liberty and property that all Judges and Magistrates should be entirely free from any influence direct or indirect in the performance of their duties which have to be carried out impartially without which justice cannot be done or the confidence of the people in the free administration of the law justified. No instructions regarding any particular matter which is before any Court can be given to them by the Sultan or by any of his Ministers.

3. Any person restrained of his liberty or detained in custody or imprisoned except in due course of law may apply by himself or by anyone on his behalf to any judge of the Court to cause him to be brought forthwith before the Court which Court shall thereupon determine whether the cause of the commitment were just or the detention lawful and the Court shall forthwith do as justice demands and if no legal justification be shown the Court shall order his immediate release.

4. The Sultan shall act towards all his subjects in an honourable and impartial manner, showing kindness and consideration to all, governing according to law, for he is not truly a Ruler whose will and pleasure rule and not the law, and maintaining the existing religion and the rights and liberties of the people, remembering that he has been placed on his high position by the people in the belief that he would justify their confidence in him.

5. Payment of the salary of any Government Official cannot be withheld when due without an order from the Head of the Department in which the Official is employed and any such order shall be subject to review by the Sultan in Council. And in the case of any debt due by judgment of any Court against any Government Official, no attachment of his salary can be made by the Court without the consent in writing of the State Secretary.

.....

# Supplement to the Constitution of the State of Johore<sup>1</sup>

12 May 1914

WHEREAS We did by article XLVII of the Constitution of the State of Johore dated the 18th day of the Month of Shawal 1312 corresponding to the 14th day of April 1895, ordain and appoint that it is not necessary that the Members of the Council of State should all be of the Malay nationality or of the Mohammedan Religion, but it is necessary that they should all be Johore subjects:

AND WHEREAS in exercise of the power reserved in article LXIV of the said Constitution, with the advice and concurrence of the Council of State, We are now pleased to ordain that, in addition to the sixteen Members of the Council prescribed by article XLVI of the said Constitution, there may from time to time be admitted as Members of the said Council other persons who are not Johore subjects who shall be styled "Additional Members";

Now, therefore, in pursuance and in exercise of the powers vested in Us as aforesaid, We do ordain that such persons shall be competent to be admitted into the said Council in like manner as if they were Johore subjects as aforesaid although it shall not be necessary for them to take an Oath of Allegiance to the Sovereign and the State but they shall be required to declare in writing that they will give every advice, opinion and suggestion, with an upright heart and with good intention for the welfare and advantage of the country and people.

## Agreement on Certain Points Touching the Relations of Her Majesty's Government of the Straits Settlements and the Government of the Independent State of Johore<sup>2</sup>

11 December 1885, as Amended by the Agreement between  
His Britannic Majesty's Government and the State  
of Johore of 12 May 1914

1 and 2. Substantially identical with articles 1 and 2 of the Pahang Agreement, p. 564.

3. (As amended in 1914.)

The Sultan of the State and Territory of Johore will receive and provide a suitable residence for a British Officer to be called the General Adviser who shall be accredited to his Court and live within the State and Territory of Johore, and whose advice must be asked and acted upon on all matters affecting the general administration of the country and on all questions other than those touching Malay religion and custom.

The cost of the General Adviser with his establishment shall be determined by the Government of the Straits Settlements and be a charge on the Revenues of Johore.

The collection and control of all Revenues of the country shall be regulated under the advice of the General Adviser.

4 and 6. Substantially identical with articles 4 and 6 of the Pahang Agreement, p. 564.

<sup>1</sup> Further supplements to the Constitution of 17 Sept. 1912, 17 July 1918, 18 July 1939 contain no relevant provisions.

<sup>2</sup> MAXWELL: *op. cit.*, pp. 132-136.

Correspondence between the Sultan of Johore and the  
High Commissioner for the Malay States<sup>1</sup>

LETTER FROM THE SULTAN OF JOHORE TO THE HIGH COMMISSIONER

11 May 1914

Sir,

In view of the proposed extension of the powers of the General Adviser, I have the honour to enquire whether the following lines of policy meet with Your Excellency's approval and concurrence.

7. There exists at the present time a school for educating Johore Malays to take part in the administration of their country. In the best interests of my people I would ask that this school should continue to be maintained and that preference should always be given to qualified Johore Malays when such are available for employment in the service of their own State.

8. I would request that Malays and Europeans in my service should be treated on terms of equality.

.....

I have, etc.,

Ibrahim.

REPLY OF THE HIGH COMMISSIONER TO THE SULTAN OF JOHORE

11 May 1914

Sir,

I have the honour to acknowledge the receipt of your Highness's letter of the 11th May 1914, on the subject of the policy to be adopted in certain matters in view of the proposed extension by treaty of the powers of the General Adviser to the Government of Johore, and to inform you that I agree with and accept Your Highness's suggestions on all the points dealt with in your letter.

I have, etc.,

Arthur Young.

**Kedah**

Edict concerning the Appointment of a Council of State to Assist  
in the Administration of Public Affairs<sup>2</sup>

23 July 1905

.....

<sup>1</sup> *Ibid.*, pp. 134-135.

<sup>2</sup> There does not appear to be any English text of this Edict; the following summary of certain of its provisions is taken from the *Annual Report of the Adviser to the Kedah Govern-*

## Correspondence between the Regent of Kedah and the High Commissioner for the Malay States<sup>1</sup>

LETTER FROM THE REGENT TO THE HIGH COMMISSIONER, 25 OCTOBER 1923

In view of the contemplated Treaty between Kedah and Great Britain I have the honour to enquire whether the following lines of policy meet with Your Excellency's approval and concurrence:

5. The administration of this State shall so far as is possible, be carried out by Malay Officers, preference being given generally to Malays domiciled in Kedah and more especially to the natives of the Country. The State Council may select annually natives of the Country to be sent for higher education to Europe or Arabia or other similar countries with a view to their holding Government appointments. The Government shall in such cases pay their expenses.

6. The Malays and Europeans in the Kedah service should be treated on terms of equality.

.....

I have, etc.,  
Ibrahim.

REPLY OF THE HIGH COMMISSIONER TO THE REGENT, 1 NOVEMBER 1923

I have the honour to acknowledge Your Highness's letter of the 25 September 1923, on the subject of the policy to be adopted on certain matters in view of the proposed definition by treaty of the relations between His Britannic Majesty's

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*ment for the year 1327 AH.* (23 Jan. 1909-12 Jan. 1910), Kuala-Lumpur Government Printing Office, 1910, pp. 11-12:

The most important measure ever passed by His Highness the Sultan is undoubtedly the Edict, dated the 23rd July, 1905, shortly after the execution of the Siamese loan contract, whereby His Highness constituted a Council of State of the leading officials in the service to assist him in the "Administration of all Public Affairs". The Council was to consist of five members, to be appointed by His Highness: the Raja Muda was President, and the Adviser appointed by Siam under the loan contract, and the Chief Judge were *ex-officio* members. The other two members were to be selected by His Highness subject to the approval of the Siamese Government.

The following powers were conferred upon the State Council:

- (1) The disposal of revenue farms;
- (2) The collection and appropriation of Government revenue;
- (3) The regulation of the amount of all salaries, and the allowances of members of the ruling house;
- (4) The enactment, subject to His Highness' approval, of all laws;
- (5) The power to make rules, regulations and by-laws for the proper administration of the country.

The finances and the "farms" thus came under the power of the State Council, but:

- (1) The *ampun-kernia*-holders and their lessees;
- (2) The *mukim*-holders and their *penghulus*;
- (3) The *nobat*-men

continued to be independent of the State Council, and the corresponding taxes, over which the State Council had no control, were:

- (1) The market, ferry, and other tolls and duties conveyed by the Sultan's *ampun-kernia*;
- (2) The private levy of forced labour, and the *ripai*-tax;
- (3) The *nobat*-tax.

With the transfer of suzerainty, the Adviser appointed by the British Government has taken the place of the Adviser appointed by the Siamese Government.

<sup>1</sup> MAXWELL: *op. cit.*, pp. 102-103.

Government and the State of Kedah, and to inform you that I agree with and accept Your Highness's suggestions on the points dealt with in your letter.  
I have, etc.,

L. N. Guilenard.

Agreement between His Britannic Majesty's Government and  
the State of Kedah, 1 November 1923<sup>1</sup>

1. The State of Kedah shall continue to be under the protection of His Britannic Majesty who shall exercise the rights of suzerainty.

2. His Highness the Sultan of Kedah shall have no political dealings with any foreign power or potentate, except through the medium of His Britannic Majesty's Government.

3. His Britannic Majesty will not transfer or otherwise dispose of his rights of suzerainty over the State of Kedah to another power and will not merge or combine the State of Kedah or her territories with any other State or with the Colony of the Straits Settlements without the written consent of His Highness the Sultan in Council.

5. The Sultan of Kedah and his successors will receive and provide a suitable residence for a British Adviser to advise on all matters connected with the Government of the State other than matters relating to Malay custom or Mohammedan religion, and will accept such advice, provided that nothing in this clause shall in any way prejudice the right of the Sultan or his successors to address the High Commissioner for the Malay States or His Britannic Majesty if the Sultan so desires.

The cost of the British Adviser with his establishment shall be determined by the High Commissioner for the Malay States and shall be a charge on the revenues of Kedah.

6. The State of Kedah shall be governed by His Highness the Sultan with the assistance of a State Council which shall consist of His Highness the Sultan as President, three other Malay members selected by name or office by His Highness with the approval of His Excellency the High Commissioner, and another member who shall be the British Adviser. Provided that by mutual consent of the High Commissioner for the Malay States and His Highness the Sultan additional members may be added to the Council for any specific period. In the absence of His Highness a Malay member selected by His Highness shall preside over the Council.

**Perlis**

The Perlis State Council Act of 1323

*25 October 1905*

3. The State Council shall consist of:

- (a) The Raja of Perlis as President
- (b) The Financial Adviser to the Government
- (c) Four Malay Members to be hereafter appointed subject to the confirmation of His Majesty the King of Siam.

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<sup>1</sup> *Ibid.*, pp. 104-105.

6. The Council shall deal with all matters coming under the following general heads, as well as with any other question not therein specifically mentioned which is of importance to the State.

All questions relating to:

- (a) The receipt or disposal, in any manner, of State moneys, revenue, including all farms and monopolies, and all other interests of Government.
- (b) The assessment, collection, remission or abrogation of any form of revenue the collection of which is now authorised or which it may be deemed hereafter proper to follow.
- (c) The passing, amendment or repeal of any Laws, Acts or Measures necessary for the proper administration of the State.

Provided that all Acts of the Perlis State Council shall be in conformity with the orders of His Siamese Majesty's Government, and Treaties with Foreign Powers affecting this State.

### Agreement Defining the Friendly Relations between the United Kingdom and Perlis<sup>1</sup>

28 April 1930

1, 2, 3, 5 and 6. *Substantially identical with the corresponding provisions of the Kedah Agreement, p. 571.*

7. The Officers of the Government of Perlis shall be Perlis Malays, but if the State Council considers that there is any work which Perlis Malays are not capable of performing, then only will persons from outside be employed. The State Council will send Perlis Malays to study outside the State various branches of learning, at the discretion of the State Council, at the charges of the Government of Perlis, so that they may be of use to the Government of the State of Perlis.

### Kelantan

### Agreement between the British Government and the Rajah of Kelantan<sup>2</sup>

22 October 1910

1. The Raja of Kelantan engages to have no political relations or political dealings with any Foreign Power or potentate, except through the medium of His Majesty the King of England.

2. His Majesty the King of England reserves the right to appoint officers to be Adviser and Assistant Adviser in the State of Kelantan to act as the representative (or agent) of His Majesty the King of England. The Raja of Kelantan engages to pay the Adviser and Assistant Adviser such salaries as His Majesty's

<sup>1</sup> *British and Foreign State Papers*, Vol. 132, 1930, part I, pp. 216-218.

<sup>2</sup> Great Britain, Colonial Office, *Colonial Reports*, Annual, No. 1917, State of Kelantan, Report for 1938, pp. 106-108.



Government shall determine, and to provide them with suitable residences; and the Raja of Kelantan further undertakes to follow and give effect to the advice of the Adviser, or in his absence, of the Assistant Adviser, in all matters of administration other than those touching the Mohammedan religion and Malay custom.

3. The Raja of Kelantan engages not to enter into any agreement concerning land, or to grant any concession to, or to allow any transfer to, or by, any individual or company other than a native or natives of the State of Kelantan, and not to appoint any official, other than a native of Kelantan, with a salary of more than £400 per annum, without previously obtaining the consent in writing of His Majesty's Government; provided that, should the area of the grant or concession not exceed 5,000 acres of agricultural land or 1,000 acres of mining land, the written consent of the Adviser thereto shall suffice; and such written consent shall also suffice for the appointment of subordinate officials who are not natives of Kelantan.

5. His Majesty's Government undertake not to interfere with the internal administration of the State of Kelantan otherwise than as provided for in this agreement, so long as nothing is done in that State contrary to the Treaty rights and obligations that His Majesty's Government have with foreign Governments, and so long as peace and order are maintained in the State of Kelantan, and it is governed for the benefit of its inhabitants with moderation, justice and humanity.

6. Matters relating to Posts and Telegraphs, and Railways being matters concerned with the administration of the State of Kelantan, shall be under the control of the Raja of Kelantan; but the Raja of Kelantan, engages to co-operate with His Majesty's Government in the construction and management of any section of a trunk line of railway or telegraph which may come within the confines of the State of Kelantan. The conditions of such co-operation shall, in each case, be the subject of special arrangement.

7. Further, the Raja of Kelantan undertakes not to grant to any company, syndicate or individual, any privileges for the construction of a railway in the State of Kelantan, without the written consent of His Majesty's Government. This stipulation, however, shall not apply to short railway lines constructed by the owners of concessions which have been granted under article 3, within the confines of such concessions and intended for the conveyance of minerals and other natural products.

8. Nothing in this agreement shall affect the administrative authority now held by the Raja of Kelantan. Except as provided for in this agreement, the relations between the Raja of Kelantan and His Majesty's Government shall be the same as those which previously existed between the Raja of Kelantan and His Siamese Majesty's Government.

### Trengganu

#### Agreement between His Majesty's Government and the Government of Trengganu of 22 April 1910 as Modified by Agreement of 24 May 1919<sup>1</sup>

1. His Majesty the King of Great Britain and His Highness the Sultan of Trengganu hereby agree that mutual help shall be rendered by the two Governments.

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<sup>1</sup> MAXWELL: *op. cit.*, pp. 112-114.

2. (As modified in 1919.)

His Highness the Sultan of Trengganu will receive and provide a suitable residence for a British Officer to be called the British Adviser, who shall live within the State of Trengganu, and whose advice must be asked and acted upon in all matters affecting the administration of the country and all questions other than those touching the Mohammedan religion.

The cost of the British Adviser with his establishment shall be determined by His Excellency the High Commissioner and be a charge on the revenues of Trengganu.

The collection and disbursement of all the revenues of the country shall be under the control of the British Adviser.

4. His Highness the Sultan of Trengganu hereby agrees that without the knowledge and consent of the British Government he will not make any treaty, deal in or correspond on political matters with or send envoys to any foreign Government, interfere in the politics of any Malay country or grant any mining concession exceeding 500 acres or other land exceeding 3,000 acres in area to any person other than natives and subjects of Trengganu.

It is also agreed that should any cause arise requiring political correspondence between the Sultan of Trengganu and any foreign Government, such correspondence shall be conducted through the British Government on whom His Highness the Sultan of Trengganu depends for help or for the settlement of any matter between the Government of Trengganu and any foreign Government.

The last preceding clause does not refer to non-political correspondence or visits of a friendly nature or the like.

## The Constitution of the Way of Illustrious Sovereignty<sup>1</sup>

*2 November 1911*

8. Although all authority in the country and Government is vested in the Raja yet it is customary and obligatory on the Raja to hold Council with all his Ministers upon any question of Government and of regulation of laws.

37. The State Council is called the Raja's general advisory chamber and its function is to assist the Raja and the Cabinet of Ministers in governing the country and its subjects in the way of making, adjusting and adding to the Laws and Regulations other than those concerning religion and Mohammedan Law considering matters for the advancement of the country and its welfare, putting up proposals for raising revenue, increasing trade, improving the condition of the peasants and rendering advice for maintaining the peace of the country and in the districts under it in the State of Trengganu and preserving good relations, friendship and concord with foreign Governments.

39. Members of the State Council must be appointed from Trengganu subjects but it is not provided that they must all be of the Mohammedan religion and the Malay race.

46. All Laws and Customs of the country must be forwarded and enforced justly and truly by all Courts of the State and officers and administrative departments among the subjects of the country and foreigners who stop and take shelter in it whether temporarily or permanently.

47. The Raja and Government of Trengganu must maintain and establish honourable and beneficial relations of friendship and good will with other Governments both near and far especially with the British (English) Government in perpetuity in understandings which ought to be prolonged and established.

<sup>1</sup>Text from typescript in New York Public Library.

48. The Raja and Government of Trengganu must strictly and firmly observe and diligently pursue and carry out the terms of the Treaty which was made on the 12th Rabil Akhir 1328 being the 22nd April 1910, or if other agreement is made with any Government it is valid so long as it is not truly and clearly oppressive and unjust to the other party and so long as it is not annulled.

51. Whereas it has been asserted and laid down and established that for all time this Government of Trengganu is of the comity of Islam in Malaya, that is it is called the State and Official religion, no other religion whatever may be set up or referred to as the State religion, however many of other races or creeds are protected and allowed to shelter in the State and Provinces of Trengganu.

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## MANCHUKUO<sup>1</sup>

### Declaration of Rights of Citizens of the Manchu State<sup>2</sup>

*1 March 1932*

2. The citizens of the Manchu State shall never suffer any interference with their property rights. The restrictions necessary for public utility shall be determined by laws.

3. The State will assure equal protection to all Manchu citizens, without distinction of race or religion.

9. Citizens of the Manchu State shall never be subject to taxes, contributions or expropriations which have not been established by the provisions of laws or ordinances.

10. Citizens of the Manchu State have the right to form associations for the defence and development of their economic interests on condition that these are not contrary to the general interest.

11. Citizens of the Manchu State shall be protected against usury or any other form of economic oppression.

12. Citizens of the Manchu State shall be entitled to enjoy without distinction the benefit of services maintained by the State or the local authorities.

### Organic Law of the Empire of Manchukuo<sup>3</sup>

*1 March 1934*

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<sup>1</sup> The Empire of Manchukuo has not been recognised by the Members of the International Labour Organisation.

<sup>2</sup> English translation from French text in DARESTE: *Les constitutions modernes*, 4th edition, Vol. V, pp. 585-586.

<sup>3</sup> There is an English translation of this text in *British and Foreign State Papers*, Vol. 137, 1934, pp. 559-563.

## NEPAL

### Treaty of Katmandu between the British Government and the Government of Nepal<sup>1</sup>

21 December 1923

1. There shall be perpetual peace and friendship between the Governments of Great Britain and Nepal, and the two Governments agree mutually to acknowledge and respect each other's independence, both internal and external.

5. In view of the long-standing friendship that has subsisted between the British Government and the Government of Nepal, and for the sake of cordial neighbourly relations between them, the British Government agrees that the Nepal Government shall be free to import from or through British India into Nepal whatever arms, ammunition, machinery, warlike material or stores may be required or desired for the strength and welfare of Nepal, and that this arrangement shall hold good for all time as long as the British Government is satisfied that the intentions of the Nepal Government are friendly and that there is no immediate danger to India from such importations . . .

6. No Customs Duty shall be levied at British Indian Ports on goods imported on behalf of the Nepal Government for immediate transport to that country provided that a certificate from such authority as may from time to time be determined by the two Governments shall be presented at the time of importation to the Chief Customs Officer at the Port of import setting forth that the goods are the property of the Nepal Government, are required for the public services of the Nepal Government, are not for the purpose of any State monopoly or State trade, and are being sent to Nepal under orders of the Nepal Government.

The British Government also agrees to the grant in respect of all trade goods, imported at British Indian Ports for immediate transmission to Katmandu without breaking bulk *en route* of a rebate of the full duty paid, provided that in accordance with arrangements already agreed to between the two Governments, such goods may break bulk for repacking at the Port of entry under Customs supervision in accordance with such rules as may from time to time be laid down in this behalf. Rebate may be claimed on the authority of a certificate signed by the said authority that the goods have arrived at Katmandu with the Customs seals unbroken and otherwise untampered with.

## NETHERLANDS INDIES

### Constitution of the Netherlands Indies<sup>2</sup>

13 July 1925

#### CHAPTER I. OF THE GOVERNOR-GENERAL AND THE COUNCIL OF NETHERLANDS INDIES

3. (1) The Governor-General may not participate either directly or indirectly

<sup>1</sup>Text from G. Fr. de MARTENS: *Nouveau recueil général de traités*, 3rd series, Vol. XIV, pp. 417-419.

<sup>2</sup>English translation from *British and Foreign State Papers*, Vol. 123, 1926, part I, pp. 949-995; for Dutch text, see *Staatsblad van Nederlandsch-Indië*, Batavia, No. 327, 1925.

in, or act as surety for, any enterprise based upon a contract concluded with the Netherlands Indies or with any part thereof for profit or advantage.

(2) With the exception of public securities, he may not possess any claims against the Netherlands Indies on account of debt.

(3) He may not participate directly or indirectly in any concession or enterprise of whatsoever nature established in the Netherlands Indies or carrying on business there, or be the owner or the tenant of land in that country.

(4) The provisions of paragraphs (1) and (3) shall continue to apply to him for 5 years after his retirement.

21. (1) The Governor-General shall provide for the execution of the general regulations, and to that end shall issue the necessary orders.

(2) In those parts of the Netherlands Indies where the right of self government has been left to the native Princes and peoples, the general regulations shall apply only so far as shall be compatible with that right.

45. (1) One of the Governor-General's most important duties shall be the protection of the native population against arbitrary action on the part of any person whatsoever.

(2) He shall be careful to see that Government officials strictly observe the relevant ordinances in force or later to be promulgated, and that the natives be enabled everywhere freely to lodge complaints.

46. (1) In every district the nature and duration of personal services which natives are obliged to render, the cases and manner in which, and the conditions on which, such services may be demanded shall be regulated by ordinance in accordance with existing usages, institutions and needs.

(2) The ordinances governing personal services shall be revised in every district every five years in order gradually to bring about therein reductions compatible with the public interests.

(3) In the report mentioned in article 60, paragraph (3), of the Constitution a statement shall be made annually showing how the prescribed regulation of the services stands.

48. (1) The Governor-General shall be careful to see that, wherever the land tax is levied according to municipal or village assessment, this is continued provisionally.

(2) The bases for the assessment of the land tax shall be fixed by ordinance.

(3) In the report mentioned in article 60, paragraph (3) of the Constitution a statement shall be made annually in regard to the measures taken by virtue of the present article.

49. (1) The Governor-General shall be careful to see that no needless obstacle is placed or remains in the way of useful enterprise.

(2) Without prejudice to rights acquired, no taxes shall be levied on the markets (pasars).

50. The Governor-General shall give his special attention to the teak (djsti) forests. He shall be careful to see that the State's rights to ownership of all such forests which have not been transferred by sale or otherwise to private persons is maintained, and that the preservation or extension of such forests and the felling of timber in them is regulated by effective measures.

51. (1) The Governor-General may not sell land.

(2) This prohibition does not include small pieces of land intended for the extension of towns and villages and for the establishment of industrial enterprises.

(3) The Governor-General may let land on lease in accordance with regulations laid down by ordinance. Such land shall not include ground cultivated by natives or belonging as common land or otherwise to villages or "dessas".

(4) Land shall be ceded in leasehold for not longer than 75 years, in accordance with regulations to be laid down by ordinance.

(5) The Governor-General shall be careful to see that no cession of land infringes the rights of the native population.

(6) The Governor-General shall not dispose of land cultivated by the natives for their own use, or belonging as common land or otherwise to villages, except for the purposes of public utility under article 133 and of official cultivation, in accordance with the relevant ordinances and in return for a suitable indemnity.

(7) The ownership of land possessed by natives in hereditary individual use shall, on application by the rightful owner, be recognised subject to the necessary limitations regarding obligations towards the State and the municipality and regarding the power of sale to non-natives; these limitations shall be laid down by ordinance and be mentioned in the title deed.

(8) The letting of land or the granting of the use of land by natives to non-natives shall take place according to rules to be laid down by ordinance.

## CHAPTER VI. OF PROVINCIAL AND SOCIAL GOVERNMENT

118. In so far as circumstances permit the native population shall be left under the immediate direction of their own chiefs, appointed or recognised by the Government, subject to such higher supervision as has been or shall be determined by the Governor-General by means of general or special regulations.

126. (1) The division of the districts in Java and Madura into regencies shall be effected by the Governor-General.

(2) A regent, chosen by the Governor-General from the native population, shall be appointed in every regency with such official title as native usages require.

(3) The instructions to the regents and their relations with the European officials shall be laid down by the Governor-General.

(4) When the post of regent in Java or Madura becomes vacant, one of the sons or relations of the last regent shall, as far as practicable, be chosen as successor, subject to qualifications of ability, zeal, honesty and fidelity.

128. (1) Native municipalities shall elect their chiefs and rulers subject to approval by an authority to be designated by ordinance. The Governor-General shall maintain that right against any infringement.

(2) Cases in which the chiefs and rulers of native municipalities shall be appointed may be indicated by ordinance designating the authority responsible for such appointment.

(3) The regulation and direction of their domestic affairs shall be left to the native municipalities, with due observance of the regulations issued by the Governor-General, by the district authority or by the administrations of independent communes designated by ordinance.

(4) Wherever the provisions of paragraphs (1) and (3) of the present article are incompatible with the institutions of the people or with acquired rights, the observance thereof shall be omitted.

(5) The authority of the native municipalities may be regulated by ordinance in so far as concerns:

- (i) The levy of taxes under supervision to be defined in the ordinance;
- (ii) The imposition of penalties for the transgression of their regulations within limits to be defined in the ordinance.

.....

(6) Native municipalities which are situated wholly or partly within the boundaries of a town for which a council has been constituted in accordance with article 121, paragraph (2) or article 124, paragraph (2), may, in so far as the territory falling within such boundaries is concerned, be abolished by ordinance or, as far as necessary, excluded from the provisions of paragraph (3) of the present article. The consequences of such abolition shall as far as necessary be provided for by ordinance.

## CHAPTER VII. OF JUSTICE

130. Justice shall be administered in the Netherlands Indies in the name of the King wherever the native population has not been permitted to retain its own system of justice.

133. (1) Expropriation of any property or rights for reasons of public utility can only take place after a previous declaration by ordinance that public utility requires expropriation and against an indemnity previously received or assured; the foregoing is effected in accordance with provisions to be laid down by ordinance.

(2) The requirements of a previous declaration by ordinance and of the previous receipt or assurance of the indemnity due shall not obtain if war, danger of war, riot, fire, flood, earthquake, volcanic eruption, or other urgent circumstances necessitate immediate expropriation.

(3) Cases other than those mentioned in the preceding paragraph may be designated by ordinance in which a previous declaration by ordinance shall not be required.

134. (1) All lawsuits about ownership or rights arising therefrom, about claims on account of debt or other civil rights, shall belong exclusively to the cognisance of the judicial power.

(2) Nevertheless, civil disputes between natives or between persons of the same race assimilated to natives, which, according to their religious laws or ancient customs, should be settled by their priests or chiefs, shall remain under the jurisdiction of the latter.

145. The forfeiture of an offender's property may not be imposed as punishment for any crime or offence.

## CHAPTER VIII. OF THE INHABITANTS

162. (1) All persons within the territory of the Netherlands Indies shall be entitled to protection of person and property.

(2) The regulations governing the extradition of aliens shall be laid down by general administrative measure.

164. (1) The Government's supervision over the printing press shall be regulated by ordinance in conformity with the principle that the publication by the press of thoughts or sentiments and the admittance of matter printed elsewhere than in the Netherlands, may meet with no other obstruction than that which is required to ensure public order.

(2) Matter printed in the Netherlands shall be admitted without hindrance, with due observance of their responsibilities, by all concerned, in accordance with regulations to be laid down by ordinance.

165. (1) The right of association and assembly of the inhabitants shall be recognised.

(2) The exercise of this right shall, in the interest of public order, be regulated and limited by ordinance.

166. Every inhabitant shall have the right to lodge written requests with the competent authority in the Netherlands, as well as in the Netherlands Indies, provided that they are signed personally and not in the name of more persons, which latter can only be done by or on behalf of bodies legally constituted and recognised as such; in that case requests shall be limited to matters included in their defined activities.

169. (1) Slavery shall be abolished at latest by the 1st January 1860 in the whole of the Netherlands Indies.

(2) The measures preparatory to and in gradual execution of such abolition, as well as the consequential indemnification shall be laid down by ordinance.

(3) In the report referred to in the third paragraph of article 60 of the Constitution a statement shall be made annually of the work done with reference to the present article.

170. (1) Trade in slaves, and the importation and sale of slaves, shall be forbidden.

(2) Persons who arrive from elsewhere as slaves shall be free as soon as they are in the territory of the Netherlands Indies.

171. The rights and obligations of masters in regard to the slaves in the Netherlands Indies shall be regulated by ordinance.

172. (1) In Java and Madura it shall continue to be forbidden to take debt slaves as security for debt.

(2) The Governor-General shall apply this prohibition to those parts of the possessions outside Java and Madura where social conditions so permit.

(3) The ordinances regulating debt slavery where it cannot yet be abolished shall tend to promote such abolition.

(4) Debt slavery shall not pass to the debtor's children.

(5) The transport of debt slaves by sea is forbidden.

#### CHAPTER IX. OF RELIGION

173. Everyone shall have perfect liberty to profess his religious beliefs, so far as is compatible with the protection of society and its members against transgression of the general regulations of penal law.

177. (1) Christian ministers, priests and missionaries shall require a special licence, issued by or in the name of the Governor-General, admitting them to carry on their work in any particular part of the Netherlands Indies.

(2) If such admission is found to be detrimental or if the conditions of it are not observed the Governor-General may withdraw it.

178. (1) Non-Christian native priests shall be placed under the supervision of the Princes, regents and chiefs in so far as the religion which each of them professes is concerned.

(2) These shall be careful to see that the priests do not undertake anything contrary to the present law or to the regulations promulgated by or in the name of the Governor-General.

#### CHAPTER X. OF EDUCATION

179. (1) Public education shall be an object of constant solicitude on the part of the Governor-General.

(2) Its organisation shall be regulated by ordinance with due respect to every person's religious beliefs.

(3) The report referred to in article 60, paragraph (3) of the Constitution shall give an account annually of the condition of public education, including that of the schools intended for the native population.

180. The imparting of education to Europeans or to persons assimilated to them shall be free, but subject to supervision by the authorities and to investigation of the ability and morality of the teachers.

181. In conformity with rules to be laid down by ordinance, adequate public elementary education shall be given whenever the needs of the European population require and circumstances permit it.

182. The Governor-General shall make provision for the establishment of schools for the use of the native population.



## CHAPTER XI. OF TRADE AND SHIPPING

183. (1) The tariffs of import, export and transit duties shall be fixed by law.

(2) In urgent circumstances these tariffs may be amended by ordinance subject to later ratification by law.

(3) Notice of such amendment shall be given to the two Chambers of the States-General without delay.

184. (1) The ports of the Netherlands Indies which have been opened for general trade shall be accessible to the ships of all nations with whom the Kingdom of the Netherlands is on terms of friendship, subject to the observance of general and local regulations.

(2) In other ports those ships shall be admitted subject to the same reservation, in so far as this shall be compatible with the regulations concerning coastal trade and the levying and ensuring of the import and export duties.

185. (1) No institution may operate in the Netherlands Indies as a bank of issue and no bank notes may be issued or circulated in the Netherlands Indies except in virtue of a law and in the manner and on the conditions to be imposed by such law.

(2) By "bank of issue" shall be understood every institution which issues or circulates bank notes either exclusively or as a part of its operations.

## CHAPTER XII. OF DRAINAGE DISTRICTS

186. (1) According as circumstances shall require the care of matters connected with drainage interests shall be entrusted to drainage districts possessing the status of a body politic.

(2) The establishment and abolition of drainage districts, as well as the composition, organisation, sphere of activity and powers of their boards, shall be regulated by ordinance.

(3) These boards may be empowered by ordinance to make regulations in the interest of the domestic affairs of the drainage district, including regulations by which taxes are levied, with due observance of the rules to be laid down in such ordinance and subject to the supervision provided thereby. The boards may also be empowered by such ordinance to include in their regulations penalties for the transgression thereof.

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**OUTER MONGOLIA****Constitution of the Mongolian People's Republic<sup>1</sup>**

*26 November 1924*

In accordance with the interests of the wide masses of the people, who demonstrated their aspirations in the revolution of year 11 (1921), when the foreign oppressors were ousted by the people in revolt, and also in view of the death on the 17th of the 4th moon of Bogdo-Khan-Damba-Hutuktu, who was until that

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<sup>1</sup> English translation from *British and Foreign State Papers*, Vol. 134, 1931, pp. 1224-1232; for original text, see *Ulan-Bator-Khoto Journal*, 10 Dec. 1924.

time the head of the State, the Government chosen by the revolutionary people have decreed:

(2) To inaugurate in the country a republican régime without a President as head of the State, but assigning the supreme power in its entirety to the Great Assembly of the people (*Huruldán*) and the Government elected by the latter.

#### CHAPTER I. DECLARATION OF THE RIGHTS OF THE LABOURING PEOPLE OF MONGOLIA

1. Mongolia is proclaimed an independent People's Republic, in which the whole power belongs to the labouring people. The people exercise their supreme power through the Great Assembly of all the people and the Government elected by the latter.

2. The primary object of the Mongolian Republic consists in the destruction of the remnants of the feudal theocratic régime, and the consolidation of the principles of the new republican order on the basis of complete democratisation of the State administration.

3. In order to realise the veritable power of the people in the administration of the State and to consolidate the political régime indicated above, the following fundamental principles are laid down:

(a) All land, subsoil, forests, waters and their riches within the confines of the territory of the Mongolian People's Republic, in accordance with the order of life hitherto established in Mongolia, which conforms to the principles of the existing régime, are declared the common property of the people; private ownership thereof is not allowed and they are entirely at the disposal of the labouring people.

(b) All international treaties and obligations regarding loans, concluded by Mongolian authorities prior to the revolution of Year 11 (1921) are to be regarded as annulled, as having been imposed by force.

(c) In view of the fact that the indebtedness of private persons and institutions to foreign usurers, which has accrued from the time of foreign domination on the basis of collective responsibility, has been a most heavy burden on the economic life of the country and the masses of the people, the decrees of the Government of the present Year 14 cancelling the residue of the indebtedness in question, and of Year 11 abolishing the system of collective responsibility, are confirmed.

(d) The entire economic policy of the country is concentrated in the hands of the State, and a State monopoly of foreign trade is introduced as one of the conditions for the liberation of the masses of the people and the consolidation of popular rule.

*Note.* State monopoly of foreign trade shall be introduced gradually, as circumstances may allow.

(e) In the interests of the retention of plenary power in the hands of the labouring people, and in order to exclude all possibility of the restoration of the power of foreign and domestic exploiters, the arming of the toilers is approved by means of the formation of the Mongolian People's Revolutionary Army, and also by the universal military training of the working youth.

(f) In order to secure for the toilers real freedom of conscience, the Church is separated from the State, and it is declared that religion is the private concern of each citizen.

(g) In order to secure for the toilers real freedom for the expression of their opinions, the Mongolian People's Republic organises the press and transfers it to the labouring people.

(h) With a view to securing for the people real freedom to organise gatherings, meetings, processions, etc., the Republic places at the disposal of the workers premises properly adapted and equipped for popular gatherings.

(i) With a view to securing for the labouring masses of the people freedom of association, the Mongolian People's Republic affords material and moral assistance to the poorest of the working masses (*orats* and artisans) for union and organisation.

(j) With a view to securing for the labouring people real access to knowledge, the Mongolian People's Republic adopts the task of organising for them full, comprehensive and free education.

(k) The Mongolian People's Republic recognises equal rights for its citizens, irrespective of their nationality, religion and sex.

(l) The Mongolian People's Republic, acting in the interests of the workers, can deprive or limit the rights of individuals or groups of persons if they exercise these rights to the detriment of the interests of the Republic.

(m) The titles and appellations of the former ruling and governing princes and nobles (*taiji*) are abolished, as well as the sovereign rights of the *hutuktus* and the *hubilyans* (reincarnations of saints).

(n) In view of the fact that the toilers of the whole world are aspiring after the radical abolition of capitalism and the attainment of socialism (communism), the People's Republic of the toilers must conduct its foreign policy in conformity with the interests and fundamental tasks of small oppressed nations and of the revolutionary toilers of the entire world.

*Note.* Nevertheless, the possibility is not precluded, as conditions and circumstances may demand, of establishing friendly relations with foreign Powers, resolutely repulsing, however, in every instance all who may attempt to assail the independence of the Mongolian People's Republic.

## CHAPTER II. ORGANISATION OF THE SUPREME ORGANS OF POWER

5. Within the competence of the supreme organs of power of the Mongolian People's Republic there fall:

(c) The raising of foreign and internal loans, the payment of interest and capital, decisions regarding postponement of the foregoing, and the grant of foreign loans.

(d) The regulation of foreign trade and the establishment of the system of internal trade.

(e) The organisation of a plan of national economy of the Republic; the grant, modification and cancellation of concessionary and monopoly rights.

(f) The organisation of transport, posts and telephonic communication.

(i) The establishment of a currency and credit system, the issue of monetary paper tokens and the coining of money.

(j) The establishment of general principles for the utilisation of land, and also the determination of the limits of the *aimaks* (groups of principalities) and *hoshuns* (principalities); the establishment of regulations for the exploitation of minerals, forests and other natural riches.

(l) The organisation of a programme of popular education.

(m) The provision of general measures for the preservation of public health.

(n) The establishment of a system of weights and measures.

(o) The organisation of the statistics of the Republic.

### *The Economic Council*

29. With a view to the co-ordination of economic measures, the Economic Council of the Mongolian Republic is established and attached to the Government in virtue of a special statute.

## PALESTINE

### Mandate for Palestine<sup>1</sup>

24 July 1922

2. The Mandatory shall be responsible for placing the country under such political, administrative and economic conditions as will secure the establishment of the Jewish national home, as laid down in the preamble, and the development of self-governing institutions, and also for safeguarding the civil and religious rights of all the inhabitants of Palestine, irrespective of race and religion.

4. An appropriate Jewish agency shall be recognised as a public body for the purpose of advising and co-operating with the administration of Palestine in such economic, social and other matters as may affect the establishment of the Jewish national home and the interests of the Jewish population in Palestine, and, subject always to the control of the administration, to assist and take part in the development of the country.

The Zionist organisation, so long as its organisation and constitution<sup>2</sup> are in the opinion of the Mandatory appropriate, shall be recognised as such agency. It shall take steps in consultation with His Britannic Majesty's Government to secure the co-operation of all Jews who are willing to assist in the establishment of the Jewish national home.

11. The administration of Palestine shall take all necessary measures to safeguard the interests of the community in connection with the development of the country, and, subject to any international obligations accepted by the Mandatory, shall have full power to provide for public ownership or control of any of the natural resources of the country or of the public works, services and utilities established or to be established therein. It shall introduce a land system appropriate to the needs of the country, having regard, among other things, to the desirability of promoting the close settlement and intensive cultivation of the land.

The administration may arrange with the Jewish agency mentioned in article 4 to construct or operate, upon fair and equitable terms, any public works, services and utilities, and to develop any of the natural resources of the country, in so far as these matters are not directly undertaken by the administration. Any such arrangements shall provide that no profits distributed by such agency, directly or indirectly, shall exceed a reasonable rate of interest on the capital, and any further profits shall be utilised by it for the benefit of the country in a manner approved by the administration.

15. The Mandatory shall see that complete freedom of conscience and the free exercise of all forms of worship, subject only to the maintenance of public order and morals, are ensured to all. No discrimination of any kind shall be made between the inhabitants of Palestine on the ground of race, religion or language. No person shall be excluded from Palestine on the sole ground of his religious belief.

The right of each community to maintain its own schools for the education of its own members in its own language, while conforming to such educational requirements of a general nature as the administration may impose, shall not be denied or impaired.

18. The Mandatory shall see that there is no discrimination in Palestine against the nationals of any State Member of the League of Nations (including companies incorporated under its laws) as compared with those of the Mandatory

<sup>1</sup> Text from *Constitutions of All Countries*, Vol. I, pp. 539-545.

<sup>2</sup> See *The Constitution of the Zionist Organisation*, 1938.

or of any foreign State in matters concerning taxation, commerce or navigation, the exercise of industries or professions, or in the treatment of merchant vessels or civil aircraft. Similarly, there shall be no discrimination in Palestine against goods originating in or destined for any of the said States, and there shall be freedom of transit under equitable conditions across the mandated area.

Subject as aforesaid and to the other provisions of this Mandate, the administration of Palestine may, on the advice of the Mandatory, impose such taxes and customs duties as it may consider necessary, and take such steps as it may think best to promote the development of the natural resources of the country and to safeguard the interests of the population. It may also, on the advice of the Mandatory, conclude a special customs agreement with any State the territory of which in 1914 was wholly included in Asiatic Turkey or Arabia.

19. The Mandatory shall adhere on behalf of the administration of Palestine to any general international conventions already existing, or which may be concluded hereafter with the approval of the League of Nations, respecting the slave traffic, the traffic in arms and ammunition, or the traffic in drugs, or relating to commercial equality, freedom of transit and navigation, aerial navigation and postal, telegraphic and wireless communication or literary, artistic or industrial property.

20. The Mandatory shall co-operate on behalf of the administration of Palestine, so far as religious, social and other conditions may permit, in the execution of any common policy adopted by the League of Nations for preventing and combating disease, including diseases of plants and animals.

21. The Mandatory shall secure the enactment within 12 months from this date, and shall ensure the execution of a law of antiquities based on the following rules. This law shall ensure equality of treatment in the matter of excavations and archaeological research to the nationals of all States Members of the League of Nations.

(1) "Antiquity" means any construction or any product of human activity earlier than the year A.D. 1700.

(2) The law for the protection of antiquities shall proceed by encouragement rather than by threat.

Any person who, having discovered an antiquity without being furnished with the authorisation referred to in paragraph (5), reports the same to an official of the competent department, shall be rewarded according to the value of the discovery.

(3) No antiquity may be disposed of except to the competent department, unless this department renounces the acquisition of any such antiquity.

No antiquity may leave the country without an export licence from the said department.

(4) Any person who maliciously or negligently destroys or damages an antiquity shall be liable to a penalty to be fixed.

(5) No clearing of ground or digging with the object of finding antiquities shall be permitted, under penalty of fine, except to persons authorised by the competent department.

(6) Equitable terms shall be fixed for expropriation, temporary or permanent, of lands which might be of historical or archaeological interest.

(7) Authorisation to excavate shall only be granted to persons who show sufficient guarantees of archaeological experience. The administration of Palestine shall not, in granting these authorisations, act in such a way as to exclude scholars of any nation without good grounds.

(8) The proceeds of excavations may be divided between the excavator and the competent department in a proportion fixed by that department. If division seems impossible for scientific reasons, the excavator shall receive a fair indemnity in lieu of a part of the find.

23. The administration of Palestine shall recognise the holy days of the respective communities in Palestine as legal days of rest for the members of such communities.

## Order in Council Providing for the Administration of Palestine<sup>1</sup>

*24 July 1922, as Amended to 21 February 1935*

12. (1) All rights in or in relation to any public lands shall vest in and may be exercised by the High Commissioner for the time being in trust for the Government of Palestine.

(2) All mines and minerals of every kind and description whatsoever being in, under or on any land or water, whether the latter be inland rivers or seas or territorial waters, shall vest in the High Commissioner subject to any right subsisting at the date of this Order of any person to work such mines or minerals by virtue of a valid concession.

13. The High Commissioner may make grants or leases of any such public lands or mines or minerals or may permit such lands to be temporarily occupied on such terms or conditions as he may think fit subject to the provisions of any ordinance.

Provided that such grant or disposition shall be in conformity either with some Order in Council or law or ordinance now or hereafter in force in Palestine, or with such instructions as may be addressed to the High Commissioner under His Majesty's Sign Manual and Signet, or through a Secretary of State, for the purposes of executing the provisions of the Mandate.

83. All persons in Palestine shall enjoy full liberty of conscience and the free exercise of their forms of worship subject only to the maintenance of public order and morals. Each religious community recognised by the Government shall enjoy autonomy for the internal affairs of the community subject to the provisions of any ordinance or order issued by the High Commissioner.

85. If any religious community or considerable section of the population in Palestine complains that the terms of the Mandate are not being fulfilled by the Government of Palestine, it shall be entitled to present a memorandum through a member of the Advisory Council or other advisory body constituted under article 17 (1) (b) of this Order or of the Legislative Council, as the case may be, to the High Commissioner. Any memorandum so submitted shall be dealt with in such manner as may be prescribed by His Majesty in conformity with the procedure recommended by the Council of the League of Nations.

## Royal Instructions to the High Commissioner<sup>2</sup>

*1 January 1932*

XVII. The High Commissioner shall not, unless he shall have previously obtained instructions thereupon from one of Our Principal Secretaries of State, promulgate any ordinance of any of the following classes, namely:

1. Any ordinance relating to immigration;
3. Any ordinance whereby any grant of land or money, or other donation or gratuity, may be made to himself;
4. Any ordinance affecting the currency of Palestine or relating to the issue of bank notes;
5. Any ordinance imposing differential duties;
6. Any ordinance the provisions of which shall appear inconsistent with obligations imposed upon Us by Treaty or by the Mandate conferred on Us for the Government of Palestine;

<sup>1</sup> Text from *Constitutions of All Countries*, Vol. I, pp. 545-552.

<sup>2</sup> *Laws of Palestine*, revised edition, Vol. III, 1934, pp. 2659-2667.

8. Any ordinance of an extraordinary nature and importance, whereby Our prerogative, or the rights and property of Our subjects not residing in Palestine, or the trade and shipping of any part of Our dominions, may be prejudiced;

9. Any ordinance whereby persons who are nationals of any States Members of the League of Nations may be subjected or made liable to any disabilities to which persons who are British subjects or nationals of any foreign State are not also subjected or made liable;

10. Any ordinance containing provisions which are repugnant to any Order in Council in force in Palestine or which have been disallowed by Us through one of Our Principal Secretaries of State.

XIX. No proposed ordinance which shall be in any way repugnant to, or inconsistent with, the provisions of the Mandate shall be submitted to the Legislative Council.

XXI. The High Commissioner shall not, unless he shall have previously obtained instructions thereupon from one of Our Principal Secretaries of State, or unless the ordinance shall contain a clause suspending its operations until the signification of Our pleasure thereupon, assent to any ordinance of any of the following classes, namely:

1. to 10. *Identical with the corresponding provisions of XVII above.*

XXV. Before disposing of any vacant or waste lands to the Government of Palestine belonging, the High Commissioner shall cause the same to be surveyed and such reservations to be made thereout as he may think necessary for roads or other public purposes. The High Commissioner shall not directly or indirectly purchase for himself any of such lands without Our special permission given through one of Our Principal Secretaries of State.

XXIX. The High Commissioner shall punctually forward to Us from year to year, through one of Our Principal Secretaries of State, the annual book of returns or reports, commonly called the Blue Book, relating to the Revenue and Expenditure, Defence, Public Works, Legislation, Civil Establishment, Pensions, Population, Schools, Holy Sites and Antiquities, Course of Exchange, Imports and Exports, Agricultural Produce, Manufactures, the immigration of Jews and the welfare of the Arab population, and other matters in the said Blue Book more particularly specified, with reference to the state and condition of Palestine, and having regard to Our obligations as the Mandatory of Palestine in accord with article XXII of the Covenant of the League of Nations.

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## COMMONWEALTH OF THE PHILIPPINES

### Constitution of the Philippines<sup>1</sup>

*Adopted by the Constitutional Convention of 8 February 1935  
and Ratified by the Philippine Electorate  
on 14 May 1935*

The Filipino people, imploring the aid of Divine Providence, in order to establish a Government that shall embody their ideals, conserve and develop the patrimony of the Nation, promote the general welfare, and secure to themselves and their posterity the blessings of independence under a régime of justice, liberty, and democracy, do ordain and promulgate this Constitution.

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<sup>1</sup>Text from U.S. Senate Document, No. 43, 74th Congress, 1st Session.

## II. DECLARATION OF PRINCIPLES

3. The Philippines renounces war as an instrument of national policy, and adopts the generally accepted principles of international law as a part of the law of the Nation.

4. The natural right and duty of parents in the rearing of the youth for civic efficiency should receive the aid and support of the Government.

5. The promotion of social justice to ensure the well-being and economic security of all the people should be the concern of the State.

## III. BILL OF RIGHTS

1. (1) No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.

(2) Private property shall not be taken for public use without just compensation.

(4) The liberty of abode and of changing the same within the limits prescribed by law shall not be impaired.

(6) The right to form associations or societies for purposes not contrary to law shall not be abridged.

(7) No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof, and the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed. No religious test shall be required for the exercise of civil or political rights.

(8) No law shall be passed abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble and petition the Government for redress of grievances.

(10) No law impairing the obligation of contracts shall be passed.

(12) No person shall be imprisoned for debt or non-payment of a poll tax.

(13) No involuntary servitude in any form shall exist except as a punishment for crime whereof the party shall have been duly convicted.

(21) Free access to the courts shall not be denied to any person by reason of poverty.

## XII. CONSERVATION AND UTILISATION OF NATURAL RESOURCES

1. All agricultural, timber, and mineral lands of the public domain, waters, minerals, coal, petroleum, and other mineral oils, all forces of potential energy, and other natural resources of the Philippines belong to the State, and their disposition, exploitation, development, or utilisation shall be limited to citizens of the Philippines, or to corporations or associations at least sixty *per centum* of the capital of which is owned by such citizens, subject to any existing right, grant, lease, or concession at the time of the inauguration of the Government established under this Constitution. Natural resources, with the exception of public agricultural land, shall not be alienated, and no licence, concession, or lease for the exploitation, development, or utilisation of any of the natural resources shall be granted for a period exceeding twenty-five years, renewable for another twenty-five years, except as to water rights for irrigation, water supply, fisheries, or industrial uses other than the development of water power, in which cases beneficial use may be the measure and the limit of the grant.

2. No private corporation or association may acquire, lease, or hold public agricultural lands in excess of one thousand and twenty-four hectares, nor may any individual acquire such lands by purchase in excess of one hundred and forty-



four hectares, or by lease in excess of one thousand and twenty-four hectares, or by homestead in excess of twenty-four hectares. Lands adapted to grazing, not exceeding two thousand hectares, may be leased to an individual, private corporation, or association.

3. The National Assembly may determine by law the size of private agricultural land which individuals, corporations, or associations may acquire and hold, subject to rights existing prior to the enactment of such law.

4. The National Assembly may authorise, upon payment of just compensation, the expropriation of lands to be subdivided into small lots and conveyed at cost to individuals.

5. Save in cases of hereditary succession, no private agricultural land shall be transferred or assigned except to individuals, corporations, or associations qualified to acquire or hold lands of the public domain in the Philippines.

6. The State may, in the interest of national welfare and defence, establish and operate industries and means of transportation and communication, and, upon payment of just compensation, transfer to public ownership utilities and other private enterprises to be operated by the Government.

### XIII. GENERAL PROVISIONS

4. The State shall promote scientific research and invention. Arts and letters shall be under its patronage. The exclusive right to writings and inventions shall be secured to authors and inventors for a limited period.

5. All educational institutions shall be under the supervision of and subject to regulation by the State. The Government shall establish and maintain a complete and adequate system of public education, and shall provide at least free public primary instruction, and citizenship training to adult citizens. All schools shall aim to develop moral character, personal discipline, civic conscience, and vocational efficiency, and to teach the duties of citizenship. Optional religious instruction shall be maintained in the public schools as now authorised by law. Universities established by the State shall enjoy academic freedom. The State shall create scholarships in arts, science, and letters for specially gifted citizens.

6. The State shall afford protection to labour, especially to working women and minors, and shall regulate the relations between landowner and tenant, and between labour and capital in industry and in agriculture. The State may provide for compulsory arbitration.

7. The National Assembly shall not, except by general law, provide for the formation, organisation, or regulation of private corporations, unless such corporations are owned or controlled by the Government or any sub-division or instrumentality thereof.

8. No franchise, certificate, or any other form of authorisation for the operation of a public utility shall be granted except to citizens of the Philippines or to corporations or other entities organised under the laws of the Philippines, sixty *per centum* of the capital of which is owned by citizens of the Philippines, nor shall such franchise, certificate, or authorisation be exclusive in character or for a longer period than fifty years. No franchise or right shall be granted to any individual firm, or corporation, except under the condition that it shall be subject to amendment, alteration, or repeal by the National Assembly when the public interest so requires.

### ORDINANCE APPENDED TO THE CONSTITUTION

1. Notwithstanding the provisions of the foregoing Constitution, pending the final and complete withdrawal of the sovereignty of the United States over the Philippines:

(3) Absolute toleration of religious sentiment shall be secured and no inhabitant or religious organisation shall be molested in person or property on account of religious belief or mode of worship.

(4) Property owned by the United States, cemeteries, churches, and parsonages or convents appurtenant thereto, and all lands, buildings, and improvements used exclusively for religious, charitable, or educational purposes shall be exempt from taxation.

(8) The Government of the Commonwealth of the Philippines shall establish and maintain an adequate system of public schools, primarily conducted in the English language.

(12) The Philippines recognises the right of the United States to expropriate property for public uses, to maintain military and other reservations and armed forces in the Philippines, and, upon order of the President of the United States, to call into the service of such armed forces all military forces organised by the Government of the Commonwealth of the Philippines.

(15) The United States may, by Presidential proclamation, exercise the right to intervene for the preservation of the Government of the Commonwealth of the Philippines and for the maintenance of the Government as provided in the Constitution thereof, and for the protection of life, property, and individual liberty and for the discharge of Government obligations under and in accordance with the provisions of the Constitution.

(17) Citizens and corporations of the United States shall enjoy in the Commonwealth of the Philippines all the civil rights of the citizens and corporations, respectively, thereof.

(19) The President of the United States shall have authority to suspend the taking effect of or the operation of any law, contract, or executive order of the Government of the Commonwealth of the Philippines, which in his judgment will result in a failure of the Government of the Commonwealth of the Philippines to fulfil its contracts, or to meet its bonded indebtedness and interest thereon or to provide for its sinking funds, or which seems likely to impair the reserves for the protection of the currency of the Philippines, or which in his judgment will violate international obligations of the United States.

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## SAUDI ARABIA

### Constitution of the Kingdom of the Hejaz<sup>1</sup>

*29 August 1926*

5. The entire administration of the Kingdom of the Hejaz shall be in the hands of His Majesty King Abed-el-Aziz I, Ibu Abd-el-Rahman Al Faisal Al Saud. His Majesty is bound by the Sharia Laws.

7. His Majesty on his part shall employ an Agent-General and as many directors and chiefs as he deems necessary to take charge of the administration of the Hejaz.

9. The departments of the Kingdom of the Hejaz shall be divided into six fundamental departments, thus:

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<sup>1</sup> English translation from *British and Foreign State Papers*, Vol. 124, 1926, part II, pp. 880-888.

- (2) Internal affairs.
- (5) Public education.

11. Internal affairs include everything in connection with public security, telegraphs, posts, public health, municipalities, public works, commerce and industry, agriculture and public establishments. These organisations shall be directly managed by the Agent-General's Office.

23. Public education comprises the diffusion of science, education and the arts, and the opening of libraries, schools and religious institutes, great care and attention being taken to act in accordance with the foundation of religion in all the Kingdom of the Hejaz.

24. The Directorate of Public Education should be attached to the Office of the Agent-General.

25. A law for public education shall be decreed and shall be brought into force gradually. Elementary education shall be free of cost throughout the Kingdom of the Hejaz.

### Royal Decree respecting the Organisation of the Legislative Assembly of Hejaz-Nejd<sup>1</sup>

13 July 1928

5. The following will be referred to the Assembly by the Government:

- (a) Budgets of Government departments, of the municipality and of "Ain Zubeyda".
- (b) Licences for economic schemes and schemes of development.
- (c) Concessions and economic and financial schemes.
- (d) Expropriations for public utility.
- (e) Drawing up of laws and regulations.
- (f) Increases in budgets of departments during the year.
- (g) Unforeseen expenditure in Government departments amounting to more than £100 and arising during the course of the year.
- (h) Decisions concerning the employment of foreign employees.
- (i) Contracts with companies or merchants for the purchase or sale of articles required by Government departments if exceeding £200.

### Royal Decree Constituting Nejd a Kingdom and Uniting it with the Hejaz<sup>2</sup>

29 January 1927

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<sup>1</sup> English translation from *British and Foreign State Papers*, Vol. 130, 1929, part I, pp. 790-791; for Arabic text see *Umm-al-Qwa*, No. 186.

<sup>2</sup> English translation from *British and Foreign State Papers*, Vol. 130, 1929, part I, pp. 790-791; for Arabic text, see *Umm-al-Qwa*, No. 121, 8 Apr. 1927.

## Idrisi Province

### Decree of the King of Hejaz, Nejd and Dependencies Instituting a Legislative Council for the Idrisi Province<sup>1</sup>

20 November 1930

5. The chiefs of the tribes shall be invited to participate with the competent authorities in the election of the members of the Legislative Council, from the village inhabitants of the Province, and those elected shall be villagers.

6. The duties of the Legislative Council are the consideration of the interests of the country and such affairs as will bring moral and material benefits and will secure peace in the interior, improve commerce, cultivation and education, provided that this does not cause prejudice to the interests of the neighbouring countries.

7. The Amir shall consider the interests of the country and the security of the roads, and arrest aggressors and persons addicted to causing disturbances whether they be citizens or Bedouin.

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## SINKIANG

*For the status of Sinkiang, see China Year Book 1939, pp. 461-465 or Statesman's Year Book 1942, p. 789.*

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## SYRIA AND LEBANON

### Mandate for Syria and the Lebanon<sup>2</sup>

24 July 1922

1. The Mandatory shall frame, within a period of three years from the coming into force of this Mandate, an organic law for Syria and the Lebanon.

This organic law shall be framed in agreement with the native authorities and shall take into account the rights, interests, and wishes of all the population inhabiting the said territory. The Mandatory shall further enact measures to facilitate the progressive development of Syria and the Lebanon as independent States. Pending the coming into effect of the organic law, the Government of Syria and the Lebanon shall be conducted in accordance with the spirit of this Mandate.

The Mandatory shall, as far as circumstances permit, encourage local autonomy.

8. The Mandatory shall ensure to all complete freedom of conscience and the free exercise of all forms of worship which are consonant with public order and

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<sup>1</sup> English translation from *British and Foreign State Papers*, Vol. 133, 1935, part II, pp. 628-629; for original Arabic text, see *Green Book concerning the Administration of the Idrisi Province*, issued by the Hejaz Nejd Government, part II.

<sup>2</sup> Text from Hudson: *International Legislation*, Vol. I, 1919-1921, pp. 100-109.

morality. No discrimination of any kind shall be made between the inhabitants of Syria and the Lebanon on the ground of differences in race, religion or language.

The Mandatory shall encourage public instruction, which shall be given through the medium of the native languages in use in the territory of Syria and the Lebanon.

The right of each community to maintain its own schools for the instruction and education of its own members in its own language, while conforming to such educational requirements of a general nature as the administration may impose, shall not be denied or impaired.

10. The supervision exercised by the Mandatory over the religious missions in Syria and the Lebanon shall be limited to the maintenance of public order and good government; the activities of these religious missions shall in no way be restricted, nor shall their members be subjected to any restrictive measures on the ground of nationality, provided that their activities are confined to the domain of religion.

The religious missions may also concern themselves with education and relief, subject to the general right of regulation and control by the Mandatory or of the local Government, in regard to education, public instruction and charitable relief.

11. The Mandatory shall see that there is no discrimination in Syria or the Lebanon against the nationals, including societies and associations, of any States Member of the League of Nations as compared with its own nationals, including societies and associations, or with the nationals of any other foreign State in matters concerning taxation or commerce, the exercise of professions or industries, or navigation, or in the treatment of ships or aircraft. Similarly, there shall be no discrimination in Syria or the Lebanon against goods originating in or destined for any of the said States; there shall be freedom of transit, under equitable conditions, across the said territory.

Subject to the above, the Mandatory may impose or cause to be imposed by the local Governments such taxes and customs duties as it may consider necessary. The Mandatory, or the local Governments acting under its advice, may also conclude on grounds of contiguity any special customs arrangements with an adjoining country.

The Mandatory may take or cause to be taken, subject to the provisions of paragraph 1 of this article, such steps as it may think best to ensure the development of the natural resources of the said territory and to safeguard the interests of the local population.

Concessions for the development of these natural resources shall be granted without distinction of nationality between the nationals of all States Members of the League of Nations, but on condition that they do not infringe upon the authority of the local Government. Concessions in the nature of a general monopoly shall not be granted. This clause shall in no way limit the right of the Mandatory to create monopolies of a purely fiscal character in the interest of the territory of Syria and the Lebanon, and with a view to assuring to the territory the fiscal resources which would appear best adapted to the local needs, or, in certain cases, with a view to developing the natural resources either directly by the State or through an organisation under its control, provided that this does not involve either directly or indirectly the creation of a monopoly of the natural resources in favour of the Mandatory or its nationals, nor involve any preferential treatment which would be incompatible with the economic, commercial and industrial equality guaranteed above.

12. *Substantially identical with Mandate for Palestine, article 19, p. 585.*

13. The Mandatory shall secure the adhesion of Syria and the Lebanon, so far as social, religious and other conditions permit, to such measures of common utility as may be adopted by the League of Nations for preventing and combating disease, including diseases of animals and plants.

14. *Substantially identical with Mandate for Palestine, article 21, p. 585.*

15. Upon the coming into force of the organic law referred to in article 1, an arrangement shall be made between the Mandatory and the local Governments for reimbursement by the latter of all expenses incurred by the Mandatory in organising the administration, developing local resources, and carrying out permanent public works, of which the country retains the benefit. Such arrangement shall be communicated to the Council of the League of Nations.

## SYRIA

### Constitution of the State of Syria<sup>1</sup>

14 May 1930

#### PART I. FUNDAMENTAL PROVISIONS

##### *Chapter II. Rights of Individuals*

6. All Syrians shall be equal in the eyes of the law. They shall enjoy equal civil and political rights; they shall be bound by the same obligations and subjected to the same charges. No distinction shall be made between them in respect of religion, faith, race or language.

7. Personal freedom shall be guaranteed. . .

13. Rights of ownership shall be protected by law; no person may be expropriated, except on grounds of public utility and in the circumstances defined by law, and on condition that fair compensation is paid beforehand.

14. The general confiscation of property is forbidden.

16. Freedom of thought shall be guaranteed; all persons shall be entitled to express their views verbally, in writing, in speeches, or graphically, subject to the limitations provided by the law.

17. Freedom of the press and of printing shall be guaranteed, subject to the conditions laid down in the law.

19. Education shall be free, in so far as it is not contrary to public order and good morals and is not detrimental to the dignity of the country or of religion.

20. Education shall be directed to raising the moral and intellectual standard of the people on lines best suited to the national characteristics, and to promoting concord and a fraternal spirit among all citizens.

21. Primary education shall be compulsory for all Syrians of both sexes, and shall be given free of charge in the public schools.

22. The curriculum for public education shall be laid down by a law and shall ensure educational uniformity.

23. All schools shall be placed under Government supervision.

25. Freedom of assembly and association shall be guaranteed in the manner prescribed by the law.

26. All Syrians shall have access to public employment, without any other distinction than that due to their qualifications or capacity, subject to the conditions laid down by the law.

27. All Syrians shall be entitled to submit requests or petitions, in conformity with the law, to the authorities or to Parliament, whether collectively or individually, and in respect to business, personal or general matters.

<sup>1</sup> English translation from LEAGUE OF NATIONS: *Official Journal*, 1930, pp. 1112-1122.

28. The rights of the different religious communities shall be guaranteed, and such bodies may found schools for the education of children in their own language, provided always that they conform to the principles laid down by the law.

### PART III. FINANCE

98. Taxes shall be established for purposes of common utility. They may only be levied, modified or abolished in virtue of a law. No person may be exempted from a tax except in virtue of a law.

104. No public loan or obligation involving a charge upon public funds may be contracted except by virtue of a law.

105. No concession for the exploitation of the natural resources of the country or for a service of public utility nor any monopoly of such a nature as to involve financial liability to the State may be granted except by virtue of a law. Such concessions or monopolies may only be granted for a limited period.

107. The economic laws shall aim at promoting the development of local industries.

### PART V. MISCELLANEOUS PROVISIONS

113. The affairs of the Bedouin tribes shall be under the direction of a special Administration; its powers shall be the subject of a law, in which consideration will be given to the special situation of these tribes.

### PART VI. TRANSITORY PROVISION

116. No provision of the present Constitution is or can be in conflict with the obligations contracted by France in respect of Syria, more particularly in regard to the League of Nations. . .

So long as France shall continue to be under international obligations in respect of Syria, any provisions of the present Constitution which may affect those obligations shall only be applied in conformity with an agreement to be concluded between the French and Syrian Governments. . .

## Alexandretta

### Statute of the Sanjak of Alexandretta<sup>1</sup>

29 May 1937

### X. MINORITIES

25. All inhabitants of the Sanjak shall enjoy full and entire protection for their lives and liberties, without distinction of birth, nationality, language, race or religion. . .

26. All citizens of the Sanjak shall be equal before the law, and shall enjoy the same civil and political rights, without distinction of race, language or religion.

<sup>1</sup>Text from HUDSON: *International Legislation*, Vol. VII, 1935-1937, pp. 720-743. The Sanjak was ceded to Turkey in 1939.

No difference of race, religion or language shall cause prejudice to any citizen of the Sanjak in the enjoyment of his civil and political rights, and especially as regards admission to public offices, functions and honours, and the exercise of the various professions and trades. . . .

27. Citizens belonging to racial, linguistic, or religious minorities shall enjoy the same treatment and the same safeguards, *de jure* and *de facto*, as other citizens of the Sanjak. In particular, they shall have equal rights to found, administer and supervise, at their own expense, all charitable, religious, and social institutions, and all schools and other instructional and educational establishments, and shall be free to use their own language and practise their own religion therein.

28. In the matter of public education, the Sanjak shall grant facilities in towns and districts where a considerable proportion of citizens belonging to racial, religious or linguistic minorities reside, for the children of such citizens to be taught in their own language in the elementary schools; provided always that the Sanjak shall not thereby be prevented from making the teaching of an official language compulsory in such schools.

29. In towns and districts where a considerable proportion of citizens of the Sanjak belonging to racial, religious or linguistic minorities reside, such minorities shall be given an equitable share in the benefit and assignment of the sums which may be allotted out of public funds in the budget of the Sanjak or in municipal or other budgets for educational, religious or charitable purposes.

32. . . . .

Minorities shall be equitably represented in the public services, to the full extent compatible with the requirements of good administration.

33. The stipulations of the foregoing articles of chapter X, in so far as they affect citizens of the Sanjak belonging to racial, linguistic or religious minorities, are placed under the guarantee of the League of Nations.

To this end, the delegate of the League shall supply it with all useful information, in such circumstances and such manner as may be determined by the Council. He shall be entitled to ask the authorities of the Sanjak for the information necessary for the performance of his duty.

Petitions from minorities shall be addressed to the delegate, who shall transmit them to the Council if he considers them worthy of the latter's attention. In such case, he shall append his own observations and those of the Government of the Sanjak.

Any Member of the League represented on the Council may draw the latter's attention to any breach or threatened breach of any of the stipulations of the statute that concern minorities.

The Council shall proceed in such a manner and shall give such instructions as it shall deem proper and effective in the circumstances.

## XII. MONETARY ADMINISTRATION

38. Syria and the Sanjak shall have the same monetary system, with the Syrian pound as the monetary unit. Other countries may participate in this system.

39. The Sanjak shall accede to a convention to be concluded between Syria and a bank of issue. Such accession shall confer upon the Sanjak rights analogous to those to be enjoyed by Syria, and shall be effected in such a manner as to safeguard the special rights and interests of the Sanjak.

The convention shall lay down the conditions governing the issue of bank notes, which shall have equal validity as legal tender in the territories of the Sanjak and of Syria. At the request of either of the two Governments, part of these notes may be stamped 'Syria' and part 'Sanjak'.

40. An agreement to be concluded between Syria and the Sanjak shall



determine their respective shares in the advantages and profits of every description resulting from the grant of the right to issue currency.

In no case may the share allotted to the Sanjak amount to less than one-tenth of such advantages and profits.

In case of disagreement, the matter shall be dealt with in accordance with the procedure laid down in article 42.

41. Syria and the Sanjak shall be entitled to mint divisional coins of identical value, composition and weight and having equal validity as legal tender, up to a maximum to be agreed upon between them and with the bank of issue.

42. All monetary questions requiring an agreement between Syria and the Sanjak shall be submitted for examination to the two Commissioners mentioned in article 13; they shall be dealt with in accordance with a procedure analogous to that laid down in article 37.

### XIII. PORT OF ALEXANDRETTA

43. Turkey shall have the right to make use to the fullest extent of the port of Alexandretta for her transit trade.

With this object, the Sanjak Government shall lease to Turkey, within the port, an area of adequate extent, which shall be assigned to her use and placed under her customs administration. The lease shall run for fifty years, subject to the payment of an annual rent of one Syrian pound gold.

Land and buildings of any kind belonging to the Sanjak Government or the municipality of Alexandretta, and situated within the leased area, shall be handed over to Turkey without further charge.

Land and buildings of any kind owned by private persons, and situated within the leased area, shall be expropriated by the Sanjak Government; compensation in respect of such expropriation shall be paid by the Turkish Government.

52. In the recruiting of labour for employment in the Turkish Free Zone, preference shall be given to the local population.

## Fundamental Law of the Sanjak of Alexandretta

29 May 1937

### CHAPTER III. JUDICIARY

#### *C. Fundamental Rights*

30. There shall be absolute freedom of conscience. . . No advantage may be granted to any religion or creed to the detriment of any other.

33. Elementary education shall be compulsory; it may be given both in public and in private schools.

In public schools, religious instruction shall be given at the discretion and in accordance with the wishes of the parents or guardians, according to creeds and in conformity with the principles thereof.

34. The liberty of the press and of printing, and freedom of association and of meeting, shall be guaranteed under the conditions provided by law.

35. No-one shall be deprived of his property save on previous payment of fair compensation, for reasons of public utility, and in the cases and according to the procedure laid down by law. Judicial proceedings may be taken in the event of a dispute as to the amount of such compensation.

## Jebel Druse

### Organic Statute of the Government of Jebel Druse<sup>1</sup>

14 May 1930

#### DECLARATION OF RIGHTS

1. All citizens shall be equal before the law. They shall enjoy civil and political rights, and shall be liable to public charges and obligations without any distinction in regard to race, religion or language.

2. Personal freedom shall be guaranteed and protected. . .

4. Freedom of conscience shall be guaranteed to all persons, as also the free exercise of all forms of worship which are consistent with public order and good morals.

5. Education shall be free, in so far as it is not contrary to public order and good morals and is not detrimental to the dignity of the religions. No step shall be taken to prejudice the rights of the communities to have schools of their own, subject to the general rules for public education laid down by the law.

6. Freedom to communicate ideas and opinions, both verbally and in writing, and freedom of meeting and of association, shall be guaranteed within the limits prescribed by the law.

7. The press shall be free within the limits prescribed by the laws and regulations designed to maintain public order and respect for the rights of individuals and communities.

8. Property shall be protected by law. No person may be deprived thereof except on grounds of public utility and on condition that fair compensation is paid beforehand.

#### FINAL PROVISION

22. For the duration of the Mandate, the powers established by the present Statute shall be exercised subject to the rights and obligations of the Mandatory Power resulting from article 22 of the Covenant of the League of Nations and from the Mandate.

## Latakia

### Organic Statute of the Government of Latakia<sup>2</sup>

14 May 1930

#### DECLARATION OF RIGHTS

1 to 2 and 4 to 8. *Substantially identical with the same articles of the Organic Statute of the Jebel Druse, above.*

<sup>1</sup> English translation from LEAGUE OF NATIONS: *Official Journal*, 1930, pp. 1127-1131.

<sup>2</sup> English translation from *ibid.*, pp. 1124-1127.

## FINAL PROVISION

27. *Substantially identical with article 22 of the Jebel Druse Organic Charter, p. 598.*

## LEBANON

Constitution of the Lebanese Republic<sup>1</sup>

*23 May 1926, as Amended 17 October 1927  
and 8 May 1929*

## PART I. FUNDAMENTAL PROVISIONS

*Chapter II. The Lebanese and the Rights and Obligations of the Lebanese*

7. All Lebanese shall be equal in the eyes of the law. They shall enjoy civil and political rights and shall also be liable to public charges and obligations without any distinction whatsoever being made.

8. Personal freedom shall be guaranteed and protected. . .

10. There shall be no interference with public instruction as long as it is not contrary to public order and morals and does not affect the dignity of the various creeds. The communities shall be entitled to maintain their own schools, provided that they conform to the general requirements relating to public instruction laid down by the State.

13. Freedom of speech and of writing, the freedom of the press, freedom to assemble together and freedom of association shall be guaranteed within the limits laid down by the law.

15. Rights of ownership shall be protected by law. No person may be expropriated except on grounds of public utility in the circumstances defined by law and on condition that fair compensation is paid beforehand.

## PART IV. VARIOUS PROVISIONS

*(B) Finances*

88. No public loan or obligation involving a charge upon public funds may be contracted except by virtue of a law.

89. No concession for the exploitation of the natural resources of the country or a service of public utility and no monopoly may be granted except by virtue of a law and for a limited period.

PART V. PROVISIONS RELATING TO THE MANDATORY POWER AND  
THE LEAGUE OF NATIONS

90. The powers established by the present Constitution shall be exercised subject to the rights and obligations of the Mandatory Power as they result from article 22 of the Covenant of the League of Nations and from the Mandate.

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<sup>1</sup> English translation from *ibid.*, pp. 1099-1112.

## TANNU-TUWA

*The Constitution of 1924 is summarised in The Statesman's Year Book of 1942, p. 791.*

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## THAILAND

### Constitution of 10 December 1932<sup>1</sup>

1. The Kingdom of Siam is one and indivisible. The Siamese people of whatever race or religion are all equally entitled to the protection of this Constitution.

12. Subject to the provisions of this Constitution, all persons are equal before the law. . .

14. Subject to the provisions of the law, every person enjoys full liberty of person, abode, property, speech, writing, publication, education, public meeting, association and vocation.

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## TIBET

### Regulations regarding Trade, Communication, and Pasturage in Tibet<sup>2</sup>

*Signed by British and Chinese Commissioners at Darjeeling,  
5 December 1893*

1. A trade mart shall be established at Yatung on the Tibetan side of the frontier, and shall be open to all British subjects for purposes of trade from the 1st day of May, 1894. The Government of India shall be free to send officers to reside at Yatung to watch the conditions of British trade at that mart.

2. British subjects trading at Yatung shall be at liberty to travel freely to and fro between the frontier and Yatung, to reside at Yatung, and to rent houses and godowns for their own accommodation, and the storage of their goods. . . British subjects shall be at liberty to sell their goods to whomsoever they please, to purchase native commodities in kind or in money, to hire transport of any kind, and in general to conduct their business transactions in conformity with local usage, and without any vexatious restrictions. Such British subjects shall receive efficient protection for their persons and property. . .

3. Import and export trade in the following articles: arms, ammunition, military stores, salt, liquors, and intoxicating or narcotic drugs, may, at the option of either Government, be entirely prohibited, or permitted only on such conditions as either Government, on their own side, may think fit to impose.

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<sup>1</sup> English translation from *British and Foreign State Papers*, Vol. 135, 1932, pp. 733-741.

<sup>2</sup> Text from HERTSLET: *Commercial Treaties*, Vol. XIX, pp. 160-163.

## Convention between Great Britain and Tibet<sup>1</sup>

*Signed at Lhasa, 7 September 1904*

2. The Tibetan Government undertakes to open forthwith trade marts to which all British and Tibetan subjects shall have free right of access at Gyantse and Gartok, as well as at Yatung.

The Regulations applicable to the trade mart at Yatung, under the Anglo-Chinese Agreement of 1893, shall, subject to such amendments as may hereafter be agreed upon by common consent between the British and Tibetan Governments, apply to the marts above-mentioned.

In addition to establishing trade marts at the places mentioned, the Tibetan Government undertakes to place no restrictions on the trade by existing routes, and to consider the question of establishing fresh trade marts under similar conditions if development of trade requires it.

4. The Tibetan Government undertakes to levy no dues of any kind other than those provided for in the tariff to be mutually agreed upon.

5. The Tibetan Government undertakes to keep the roads to Gyantse and Gartok from the frontier clear of all obstruction and in a state of repair suited to the needs of the trade, and to establish at Yatung, Gyantse and Gartok, and at each of the other trade marts that may hereafter be established, a Tibetan Agent who shall receive from the British Agent appointed to watch over British trade at the marts in question any letter which the latter may desire to send to the Tibetan or to the Chinese authorities. . .

9. The Government of Tibet engages that, without the previous consent of the British Government:

- (a) No portion of Tibetan territory shall be ceded, sold, leased, mortgaged or otherwise given for occupation, to any foreign Power;
- (d) No concessions for railways, roads, telegraphs, mining or other rights shall be granted to any foreign Power, or the subject of any foreign Power. In the event of consent to such concessions being granted similar or equivalent concessions shall be granted to the British Government;
- (e) No Tibetan revenues, whether in kind or in cash, shall be pledged or assigned to any foreign Power, or the subject of any foreign Power.

## Convention between Great Britain and China<sup>2</sup>

*Signed at Peking, 27 April 1906*

2. The Government of Great Britain engages not to annex Tibetan territory or to interfere in the administration of Tibet. The Government of China also undertakes not to permit any other foreign State to interfere with the territory or internal administration of Tibet.

3. The concessions which are mentioned in article 9 (d) of the Convention concluded on September 7th, 1904, by Great Britain and Tibet are denied to any State or to the subject of any State other than China, but it has been arranged with China that at the trade marts specified in article 2 of the aforesaid Convention Great Britain shall be entitled to lay down telegraph lines connecting with India.

<sup>1</sup>Text from *India, Foreign Department. A Collection of Treaties, Engagements and Sanads*, edited by C. AITCHISON, 5th edition, Vol. XIV, pp. 22-24.

<sup>2</sup>*Ibid.*, p. 27.

## Tibet Trade Regulations<sup>1</sup>

*Signed at Calcutta by British, Chinese and Tibetan Representatives  
20 April 1908*

1. The Trade Regulations of 1893 shall remain in force in so far as they are not inconsistent with these Regulations.

2. . . . .

As difficulty is experienced in obtaining suitable houses and godowns at some of the marts, it is agreed that British subjects may also lease lands for the building of houses and godowns at the marts, the locality for such building sites to be marked out especially at each mart by the Chinese and Tibetan authorities in consultation with the British Trade Agent. . .

. . . No building is to be commenced by the lessee on a site before the Municipal Office has issued him a permit to build, but it is agreed that there shall be no vexatious delays in the issue of such permit.

8. . . . . No restrictions whatever shall be placed on the employment by British officers and traders of Chinese and Tibetan subjects in any lawful capacity. The persons so employed shall not be exposed to any kind of molestation or suffer any loss of civil rights to which they may be entitled as Tibetan subjects, but they shall not be exempted from all lawful taxation. If they be guilty of any criminal act, they shall be dealt with by the local authorities according to law without any attempt on the part of their employer to screen or conceal them.

11. For public safety tanks or stores of kerosene oil or any other combustible or dangerous articles in bulk must be placed far away from inhabited places at the marts.

British or Indian merchants, wishing to build such tanks or stores, may not do so until, as provided in Regulation 2, they have made application for a suitable site.

12. British subjects shall be at liberty to deal in kind or in money, to sell their goods to whomsoever they please, to purchase native commodities from whomsoever they please, to hire transport of any kind, and to conduct in general their business transactions in conformity with local usage and without any vexatious restrictions or oppressive exactions whatever.

It being the duty of the police and local authorities to afford efficient protection at all times to the persons and property of the British subjects at the marts, and along the routes to the marts, China engages to arrange effective police measures at the marts and along the routes to the marts. On due fulfilment of these arrangements, Great Britain undertakes to withdraw the Trade Agents' guards at the marts and to station no troops in Tibet so as to remove all cause for suspicion and disturbance among the inhabitants. The Chinese Authorities will not prevent the British Trade Agents holding personal intercourse and correspondence with the Tibetan officers and people.

Tibetan subjects trading, travelling or residing in India shall receive equal advantages to those accorded by this Regulation to British subjects in Tibet.

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## TIMOR

*See Portuguese Colonies, pp. 686-693.*

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<sup>1</sup> Text from *India, Foreign Department. A Collection of Treaties, Engagements and Sanads*, edited by C. AITCHISON, 5th edition, Vol. XIV, pp. 28-32.

## TRANSJORDAN

### Mandate for Transjordan<sup>1</sup>

16 September 1922

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### Organic Law<sup>2</sup>

16 April 1928

#### PART I. RIGHTS OF THE PEOPLE

5. There shall be no difference in rights before the law among Transjordanians although they may differ in race, religion and language.

8. The rights of ownership shall be safeguarded, and there shall be no forced loan or confiscation of movable or immovable property except in accordance with the law. Compulsory or forced labour may be exacted for public purposes only. The labour shall invariably be of an exceptional character, shall always require adequate remuneration and shall not involve the removal of the labourers from their usual place of residence. The property of no person shall be expropriated except for the purpose of public utility in circumstances to be defined by law and on condition that equitable compensation is paid for it.

11. All Transjordanians shall be free to express and publish their opinions and to assemble together and to form and be members of associations within the provisions of the law.

12. Transjordanian subjects are entitled to submit complaints or representations respecting matters concerning their persons or concerning public affairs to the Amir and the Legislative Council in such manner and under such conditions as may be prescribed by law.

14. The various communities shall have the right to establish and maintain their schools for the teaching of their own members in their own language provided that they conform to the general requirements prescribed by law.

#### PART VII. GENERAL

62. No tax shall be imposed except by law, provided that this shall not apply to income which may be received by Government departments in return for public services or for the enjoyment of Government property.

67. (1) All rights in or relation to any public lands shall vest in and may be exercised by the Amir in trust for the Transjordan Government.

(2) All mines and minerals of every kind and description whatsoever being in, under or on any land or water whether territorial waters, river or inland sea

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<sup>1</sup> This takes the form of a memorandum on the application of the Mandate for Palestine in Transjordan; for the text see HUDSON: *International Legislation*, Vol. I, 1919-1921, pp. 120-122.

<sup>2</sup> *Official Gazette*, No. 188, 19 Apr. 1928. *British and Foreign State Papers*, Vol. 128, 1928, part 1, pp. 258-268.

shall vest in the Amir subject to any right subsisting at the date of this Organic Law of any person to work such mines or minerals by virtue of a valid concession.

68. The Amir in Council may make grants or leases of any such public lands or mines or minerals or may permit such lands to be temporarily occupied on such terms or conditions as he may think fit subject to the provisions of this Organic Law.

Provided that no such grant, leave or disposition shall be made otherwise than in conformity with law.

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## UNION OF SOVIET SOCIALIST REPUBLICS

*The Constitutions of the Asiatic Union Republics of the U.S.S.R. are grouped with those of the European Republics at pp. 179-190.*

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## YEMEN

Treaty of Friendship and Mutual Co-operation between His Majesty  
in respect of the United Kingdom and of India  
and the King of the Yemen<sup>1</sup>

*Sana, 11 February 1934*

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<sup>1</sup> For text, see Great Britain, Foreign Office, Yemen No. 1 (1934), Cmd. 4630. No instruments for the Persian Gulf Arab States are included in this volume: for the treaties and agreements defining the relations of Bahrain with the British Government, see *India, Foreign Department. A Collection of Treaties, Engagements and Sanads relating to India and Neighbouring Countries*, compiled by C. ARCHERSON, 5th edition, Vol. XI, pp. 233-239; for those defining the relations of the Trucial Arab Shaikhs of Oman with the British Government, see *ibid.*, pp. 239-261; for those defining the relations of Kuwait with the British Government, see *ibid.*, pp. 262-267; for those defining the relations of Muscat with the British Government, see *ibid.*, pp. 287-322; for those defining the relations of Wahabi with the British Government, see *ibid.*, pp. 206-233.



# Oceania

## AUSTRALIA

### Commonwealth of Australia Constitution Act<sup>1</sup>

*63 & 64 Vict., c. 12 — 9 July 1900,  
as Amended 1907, 1910 and 1929*

#### CONSTITUTION OF THE COMMONWEALTH OF AUSTRALIA

51. The Parliament shall, subject to this Constitution, have power to make laws for the peace, order, and good government of the Commonwealth with respect to:

- (i) Trade and commerce with other countries, and among the States.
- (ii) Taxation, but so as not to discriminate between States or parts of States.
- (iii) Bounties on the production or export of goods, but so that such bounties shall be uniform throughout the Commonwealth.
- (iv) Borrowing money on the public credit of the Commonwealth.
- (v) Postal, telegraphic, telephonic, and other like services.
- (vi) The naval and military defence of the Commonwealth and of the several States, and the control of the forces to execute and maintain the laws of the Commonwealth.
- (vii) Lighthouses, lightships, beacons and buoys.
- (viii) Astronomical and meteorological observations.
- (ix) Quarantine.
- (x) Fisheries in Australian waters beyond territorial limits.
- (xi) Census and statistics.
- (xii) Currency, coinage, and legal tender.
- (xiii) Banking, other than State banking; also State banking extending beyond the limits of the State concerned, the incorporation of banks, and the issue of paper money.
- (xiv) Insurance, other than State insurance; also State insurance extending beyond the limits of the State concerned.
- (xv) Weights and measures.
- (xvi) Bills of exchange and promissory notes.
- (xvii) Bankruptcy and insolvency.
- (xviii) Copyrights, patents of inventions and designs, and trade marks.
- (xix) Naturalisation and aliens.
- (xx) Foreign corporations, and trading or financial corporations formed within the limits of the Commonwealth.
- (xxi) Marriage.
- (xxii) Divorce and matrimonial causes; and in relation thereto, parental rights, and the custody and guardianship of infants.

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<sup>1</sup> Text from *Constitutions of All Countries*, Vol. I, pp. 57-89.

- (xxiii) Invalid and old-age pensions.
- (xxiv) The service and execution throughout the Commonwealth of the civil and criminal process and the judgments of the courts of the States.
- (xxv) The recognition throughout the Commonwealth of the laws, the public Acts and records, and the judicial proceedings of the States.
- (xxvi) The people of any race, other than the aboriginal race in any State, for whom it is deemed necessary to make special laws.
- (xxvii) Immigration and emigration.
- (xxviii) The influx of criminals.
- (xxix) External affairs.
- (xxx) The relations of the Commonwealth with the Islands of the Pacific.
- (xxxi) The acquisition of property on just terms from any State or person in respect of which the Parliament has power to make laws.
- (xxxii) The control of railways with respect to transport for the naval and military purposes of the Commonwealth.
- (xxxiii) The acquisition, with the consent of a State, of any railways of the State on terms arranged between the Commonwealth and the State.
- (xxxiv) Railway construction and extension in any State with the consent of that State.
- (xxxv) Conciliation and arbitration for the prevention and settlement of industrial disputes extending beyond the limits of any one State.
- (xxxvi) Matters in respect of which this Constitution makes provision until the Parliament otherwise provides.
- (xxxvii) Matters referred to the Parliament of the Commonwealth by the Parliament or Parliaments of any State or States, but so that the law shall extend only to States by whose Parliaments the matter is referred, or which afterwards adopt the law.
- (xxxviii) The exercise within the Commonwealth, at the request or with the concurrence of the Parliaments of all the States directly concerned, of any power which can at the establishment of this Constitution be exercised only by the Parliament of the United Kingdom or by the Federal Council of Australasia.
- (xxxix) Matters incidental to the execution of any power vested by this Constitution in the Parliament or in either House thereof, or in the Government of the Commonwealth, or in the Federal judicature, or in any department or officer of the Commonwealth.

88. Uniform duties of customs shall be imposed within two years after the establishment of the Commonwealth.

90. On the imposition of uniform duties of customs the power of the Parliament to impose duties of customs and of excise, and to grant bounties on the production or export of goods, shall become exclusive.

On the imposition of uniform duties of customs all laws of the several States imposing duties of customs or of excise, or offering bounties on the production or export of goods, shall cease to have effect, but any grant of or agreement for any such bounty lawfully made by or under the authority of the Government of any State shall be taken to be good if made before the thirtieth day of June, one thousand eight hundred and ninety-eight, and not otherwise.

91. Nothing in this Constitution prohibits a State from granting any aid to or bounty on mining for gold, silver, or other metals, nor from granting, with the consent of both Houses of the Parliament of the Commonwealth expressed by resolution, any aid to or bounty on the production or export of goods.

92. On the imposition of uniform duties of customs, trade, commerce, and intercourse among the States, whether by means of internal carriage or ocean navigation, shall be absolutely free.

But notwithstanding anything in this Constitution, goods imported before the imposition of uniform duties of customs into any State, or into any Colony which, whilst the goods remain therein, becomes a State, shall, on thence passing into

another State within 2 years after the imposition of such duties, be liable to any duty chargeable on the importation of such goods into the Commonwealth, less any duty paid in respect of the goods on their importation.

98. The power of the Parliament to make laws with respect to trade and commerce extends to navigation and shipping, and to railways the property of any State.

99. The Commonwealth shall not, by any law or regulation of trade, commerce, or revenue, give preference to one State or any part thereof over another State or any part thereof.

100. The Commonwealth shall not, by any law or regulation of trade or commerce, abridge the right of a State or of the residents therein to the reasonable use of the waters of rivers for conservation or irrigation.

101. There shall be an Inter-State Commission, with such powers of adjudication and administration as the Parliament deems necessary for the execution and maintenance, within the Commonwealth, of the provisions of this Constitution relating to trade and commerce, and of all laws made thereunder.

102. The Parliament may by any law with respect to trade or commerce forbid, as to railways, any preference or discrimination by any State, or by any authority constituted under a State, if such preference or discrimination is undue and unreasonable, or unjust to any State; due regard being had to the financial responsibilities incurred by any State in connection with the construction and maintenance of its railways. But no preference or discrimination shall, within the meaning of this section, be taken to be undue and unreasonable, or unjust to any State, unless so adjudged by the Inter-State Commission.

104. Nothing in this Constitution shall render unlawful any rate for the carriage of goods upon a railway, the property of a State, if the rate is deemed by the Inter-State Commission to be necessary for the development of the territory of the State, and if the rate applies equally to goods within the State and to goods passing into the State from other States.

105. The Parliament may take over from the States their public debts as existing at the establishment of the Commonwealth, or a proportion thereof according to the respective numbers of their people as shown by the latest statistics of the Commonwealth, and may convert, renew, or consolidate such debts, or any part thereof; and the States shall indemnify the Commonwealth in respect of the debts taken over, and thereafter the interest payable in respect of the debts shall be deducted and retained from the portions of the surplus revenue of the Commonwealth payable to the several States, or if such surplus is insufficient, or if there is no surplus, then the deficiency or the whole amount shall be paid by the several States.

105a. (1) The Commonwealth may make agreements with the States with respect to the public debts of the States, including:

- (a) The taking over of such debts by the Commonwealth;
- (b) The management of such debts;
- (c) The payment of interest and the provision and management of sinking funds in respect of such debts;
- (d) The consolidation, renewal, conversion, and redemption of such debts;
- (e) The indemnification of the Commonwealth by the States in respect of debts taken over by the Commonwealth; and
- (f) The borrowing of money by the States or by the Commonwealth, or by the Commonwealth for the States.

(2) The Parliament may make laws for validating any such agreement made before the commencement of this section.

(3) The Parliament may make laws for the carrying out by the parties thereto of any such agreement.

(4) Any such agreement may be varied or rescinded by the parties thereto.

(5) Every such agreement and any such variation thereof shall be binding upon the Commonwealth and the States parties thereto notwithstanding anything contained in this Constitution or the Constitution of the several States or in any law of the Parliament of the Commonwealth or of any State.

(6) The powers conferred by this section shall not be construed as being limited in any way by the provisions of section 105 of this Constitution.

109. When a law of a State is inconsistent with a law of the Commonwealth, the latter shall prevail, and the former shall, to the extent of the inconsistency, be invalid.

112. After uniform duties of customs have been imposed, a State may levy on imports or exports, or on goods passing into or out of the State, such charges as may be necessary for executing the inspection laws of the State; but the net produce of all charges so levied shall be for the use of the Commonwealth; and any such inspection laws may be annulled by the Parliament of the Commonwealth.

113. All fermented, distilled, or other intoxicating liquids passing into any State or remaining therein for use, consumption, sale, or storage, shall be subject to the laws of the State as if such liquids had been produced in the State.

115. A State shall not coin money, nor make anything but gold and silver coin a legal tender in payment of debts.

116. The Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth.

117. A subject of the Queen, resident in any State, shall not be subject in any other State to any disability or discrimination which would not be equally applicable to him if he were a subject of the Queen resident in such other State.

## Proposed Amendment to the Constitution<sup>1</sup>

*1 October 1942*

### A BILL FOR AN ACT

To alter the Constitution by empowering the Parliament to make laws for the purpose of carrying into effect the war aims and objects of Australia as one of the United Nations, including the attainment of economic security and social justice in the post-war world, and for the purpose of post-war reconstruction.

### PREAMBLE

Be it enacted by the King's Most Excellent Majesty, the Senate, and the House of Representatives, with the approval of the electors, as required by the Constitution, as follows:

<sup>1</sup>Text from *Post-War Reconstruction. A Case For Greater Commonwealth Powers*, prepared for the Constitutional Convention at Canberra, Nov. 1942, by and under the direction of the Attorney-General of the Commonwealth of Australia, the Right Honourable H. V. EVATT, K.C., M.P., L.L.D., pp. 115-116. This document also contains an exposition of the reasons for the proposed amendment.

## SHORT TITLE

1. This may be cited as *Constitution Alteration (War Aims and Reconstruction) 1942*.
2. The Constitution is altered by inserting in chapter I after part V the following part and section:

## PART VI. WAR AIMS AND POST-WAR RECONSTRUCTION

*Power to Carry Out War Aims and Post-War Reconstruction*

60a. (1) The Parliament shall have full power to make laws for the peace order and good government of the Commonwealth, its territories and all places under its jurisdiction or control, for the purpose of carrying into effect the war aims and objects of Australia as one of the United Nations, including the attainment of economic security and social justice in the post-war world and for the purpose of post-war reconstruction generally.

(2) Without limiting the generality of the foregoing sub-section, it is hereby declared that the power of the Parliament shall extend to all measures which in the declared opinion of the Parliament will tend to achieve economic security and social justice, including security of employment and the provision of useful occupation for all the people, and shall include power to make laws with respect to:

- (a) The re-instatement and advancement of those who have been members of the fighting services of the Commonwealth during the war and of the dependants of such members who have died or been disabled as a consequence of the war;
- (b) Employment, including the transfer of workers from war-time industries;
- (c) The development of the country and the expansion of production and markets;
- (d) The production and manufacture of goods and the supply of goods and services, and the establishment and development of industries;
- (e) Prices of goods and services, including their regulation and control;
- (f) Profiteering;
- (g) The encouragement of population;
- (h) Carrying into effect the guarantee of the four freedoms, that is to say:
  - (i) Freedom of speech and expression;
  - (ii) Religious freedom;
  - (iii) Freedom from want; and
  - (iv) Freedom from fear;
- (i) National works and services, including water conservation and irrigation, afforestation and the protection of the soil;
- (j) The improvement of living standards in both rural and urban areas;
- (k) Transport, including air transport;
- (l) National health and fitness;
- (m) The housing of the people; and
- (n) Child welfare.

(3) All the powers conferred upon the Parliament by this section may be exercised notwithstanding anything contained elsewhere in this Constitution or in the Constitution of any State and shall be exercisable as on and from a date to be proclaimed by the Governor-General in Council.

Revised Text of Proposed Amendment to the Constitution  
Circulated at the Constitutional Convention of Canberra<sup>1</sup>

24 November 1942

A BILL FOR AN ACT

To alter the Constitution by empowering the Parliament to make laws for the purpose of post-war reconstruction and by guaranteeing religious freedom and freedom of expression.

PREAMBLE

Whereas the aims and objects of Australia as a member of the British Commonwealth of Nations and as one of the United Nations in the present war make it desirable that the Commonwealth should have power to carry out plans for post-war reconstruction and that the Constitution should guarantee both religious freedom and freedom of expression:

.....

1. This Act may be cited as *Constitution Alteration (Post-War Reconstruction) 1942*.
2. The Constitution is altered by inserting in chapter I after part V the following part and section:

PART VI. POST-WAR RECONSTRUCTION

60a. *Power to Carry out Post-War Reconstruction.* (1) The Parliament shall have power to make laws for the peace, order and good government of the Commonwealth, for the purpose of post-war reconstruction.

(2) It is hereby declared, without limiting the generality of the preceding sub-section, that the Parliament shall have power to make laws with respect to:

- (a) The re-instatement and advancement of those who have been members of the fighting services of the Commonwealth during the war and of the dependants of such members who have died or been disabled as a consequence of the war;
- (b) Employment and unemployment, security of employment, the improvement of standards of living and the relations between employer and employee;
- (c) Trade, commerce and industry (including the production, manufacture and supply of goods and the supply of services);
- (d) Companies;
- (e) Investment;
- (f) Profiteering and prices;
- (g) The marketing of goods;
- (h) Transport;
- (i) National works;
- (j) Social services and social welfare;
- (k) Health and housing; and
- (l) The protection of the aboriginal natives of Australia.

<sup>1</sup>Text from Commonwealth of Australia, Convention of Representatives of the Commonwealth and State Parliaments on Proposed Alteration of the Commonwealth Constitution, held at Canberra, 24 Nov.-2 Dec. 1942, *Record of Proceedings*, pp. 11-12. This document also contains the text of the debates on the proposed amendment.

(3) The power of the Parliament to make laws under paragraphs (f) and (g) of the last preceding sub-section may be exercised notwithstanding anything contained in section ninety-two of this Constitution.

(4) The Parliament may make laws authorising any State or any Minister, officer or instrumentality of a State, or any local authority constituted under a law of a State, to assist in the execution of any power conferred on the Parliament by this section.

3. Section one hundred and sixteen of the Constitution is altered to read as follows:

116. *Religious freedom.* Neither the Commonwealth nor a State may make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth or a State.

4. The Constitution is altered by inserting after section one hundred and sixteen the following section:

116a. *Freedom of speech and of the press.* Neither the Commonwealth nor a State may make any law abridging the freedom of speech, or of the press.

Draft Bill for the Delegation of Powers to the Commonwealth  
by the States Submitted for Action by the States  
by the Constitutional Convention<sup>1</sup>

3 December 1942

1. This Act may be cited as the Commonwealth Powers Act.
2. The following matters are hereby referred to the Parliament of the Commonwealth, that is to say:
  - (a) The re-instatement and advancement of those who have been members of the fighting services of the Commonwealth during the war, and the advancement of the dependants of those members who have died or been disabled as a consequence of the war.
  - (b) Employment and unemployment.
  - (c) Organised marketing of commodities.
  - (d) Uniform company legislation.
  - (e) Trusts, combines, and monopolies.
  - (f) Profiteering and prices (but not including prices or rates charged by State or semi-governmental or local governing bodies for goods or services).
  - (g) The production (other than primary production) and distribution of goods, and, with the consent of the Governor-in-Council, primary production, but so that no law made under this paragraph shall discriminate between States or parts of States.
  - (h) The control of overseas exchange and overseas investment, and the regulation of the raising of money in accordance with such plans as are approved by a majority of members of the Australian Loan Council.
  - (i) Air transport.
  - (j) Uniformity of railway gauges.
  - (k) National works, but so that the consent of the Governor-in-Council shall

<sup>1</sup> *Ibid.*, pp. 152-154. It appears to be doubtful whether this Act will enter into force.

be obtained in each case before the work is undertaken, and that the work shall be carried out in co-operation with the State.

- (l) National health in co-operation with the State.
- (m) Family allowances.
- (n) The people of the aboriginal race.

3. (1) This Act shall not be repealed or amended except in the manner provided in this section.

(2) A bill for repealing or amending this Act shall not be presented to the Governor for His Majesty's assent until the bill has been approved by the electors in accordance with this section.

(3) On a day to be appointed by the Governor-in-Council, but not sooner than three months after the passage of the bill through both Houses of the Legislature, the bill shall be submitted to the electors qualified to vote for the election of members of the Legislative Assembly.

(4) When the bill is submitted to the electors the vote shall be taken in such manner as the Legislature provides.

(5) If a majority of the electors voting approve the bill it shall be presented to the Governor for His Majesty's assent.

(6) This Act and the reference made by this Act shall commence on the date upon which it is assented to, and shall continue in force for a period ending at the expiration of five years after Australia ceases to be engaged in hostilities in the present war, and no law made by the Parliament of the Commonwealth with respect to matters referred to it by this Act shall continue to have any force or effect by virtue of this Act or the reference made by this Act after the expiration of that period.

### Letters Patent Constituting the Office of Governor-General and Commander-in-Chief<sup>1</sup>

*29 October 1900, as Amended 15 December 1920*

.....

### Royal Instructions to the Governor-General and Commander-in-Chief<sup>2</sup>

*29 October 1900, as Amended 11 August 1902 and 15 December 1902*

.....

<sup>1</sup> Text in *Constitutions of All Countries*, Vol. I, pp. 84-86 and in *Statutory Rules and Orders* revised to 31 Dec. 1903, Vol. I, p. 2, with amendment in *Statutory Rules and Orders*, Vol. II, 1920, p. 1566.

<sup>2</sup> Text in *Constitutions of All Countries*, Vol. I, pp. 86-89.



## STATES OF AUSTRALIA

**New South Wales**Constitution Act, 1902-1936<sup>1</sup>

5. The Legislature shall, subject to the provisions of the Commonwealth of Australia Constitution Act, have power to make laws for the peace, welfare and good government of New South Wales in all cases whatsoever. . .

8. The Legislature may make laws regulating the sale, letting, disposal and occupation of the waste lands of the Crown in New South Wales.

9. It shall not be lawful for the Legislature to enforce any dues or charges upon shipping contrary to or at variance with any treaty concluded by His Majesty with any foreign Power.

**Queensland**Constitution Act, 1867<sup>2</sup>

22. Within the said Colony of Queensland Her Majesty shall have power by and with the advice and consent of the said Council and Assembly to make laws for the peace, welfare and good government of the Colony in all cases whatsoever. . .

31. It shall not be lawful for the Legislature of the Colony . . . to enforce any dues or charges upon shipping contrary to or at variance with any treaty or treaties constituted by Her Majesty with any foreign Power.

40. The entire management and control of the waste lands belonging to the Crown in the said Colony of Queensland and also the appropriation of the gross proceeds of the sale of such lands and of all other proceeds and revenues of the same from whatever source arising within the said Colony including all royalties, mines and minerals shall be vested in the Legislature of the said Colony. *Proviso concerning prior contracts, promises and engagements.*

**South Australia**Constitution Act, 1934-1936<sup>3</sup>

.....

**Tasmania**The Constitution Act, 1934<sup>4</sup>

46. (1) Freedom of conscience and the free profession and practice of religion are, subject to public order and morality, guaranteed to every citizen.

(2) No person shall be subject to any disability or be required to take any oath on account of his religion or religious belief and no religious test shall be imposed in respect of the appointment to or holding of any public office.

<sup>1</sup> NEW SOUTH WALES: *Incorporated Acts*, being a Selection of Acts reprinted under the Amendments Incorporation Act, 1906, Vol. XII, 1936, pp. 19-127.

<sup>2</sup> *The Queensland Statutes in Six Volumes*, Vol. I, 1911, pp. 305-322.

<sup>3</sup> *The Public General Acts of South Australia*, 1837-1936, Vol. 2, 1937, pp. 1-39.

<sup>4</sup> *The Public General Acts of Tasmania*, 1826-1934, Vol. I, pp. 850-893.

## Victoria

### The Constitution Act, 1855<sup>1</sup>

LIV. Subject to the provisions herein contained it shall be lawful for the Legislature of Victoria to make laws for regulating the sale, letting, disposal and occupation of the waste lands of the Crown within the said Colony and of all mines and minerals therein.

### The Constitution Act Amendment Act, 1928<sup>2</sup>

. . . . .

## Western Australia

### The Constitution Act, 1889<sup>3</sup>

. . . . .

### An Act to further Amend the Constitution Act of 1889, and to Provide for the Better Protection of the Aboriginal Race of Western Australia, 1897<sup>4</sup>

5. There shall be a sub-department, to be called the Aborigines Department, and to be charged with the duty of promoting the welfare of the aboriginal Natives, providing them with food and clothing when they would otherwise be destitute; providing for the education of aboriginal children (including half castes), and in generally assisting in the preservation and well-being of the Aborigines.

. . . . .

7. It shall be the duty of the Aborigines Department:

- (1) To apportion, distribute and apply as it may seem most fit, the moneys by this act placed at their disposal;
- (2) To distribute blankets, clothes and other relief to the Aborigines at the discretion of the Department;
- (3) To provide for the custody, maintenance and education of the children of Aborigines;
- (4) To provide as far as practicable for the supply of medical attendance, medicines, rations and shelter to sick aged and infirm Aborigines.
- (5) To manage and regulate the use of all reserves set apart for the benefit of the Aborigines;
- (6) To exercise a general supervision and care over all matters affecting the interests and welfare of the Aborigines and to protect them against injustice, imposition and fraud.

<sup>1</sup> *The General Public Acts of Victoria*, Vol. I, 1929, pp. 822-838.

<sup>2</sup> *Ibid.*, pp. 839-1059.

<sup>3</sup> *The Statutes of Western Australia*, 1883-1892, Vol. II, 1896, pp. 373-390.

<sup>4</sup> *The Acts of the Parliament of Western Australia*, 1897, pp. 9-12.

11. The Minister may cancel or may direct the cancellation of any contract of service between any aboriginal Native and any person who, in the opinion of the Minister, is unfit to be an employer of such a Native.

.....

## TERRITORIES OF AUSTRALIA<sup>1</sup>

### Australian Antarctic Territory

Australian Antarctic Territory Acceptance Act<sup>2</sup>

.....

### Australian Capital Territory (Canberra)

Seat of Government (Administration) Act, 1910-1940<sup>3</sup>

.....

### Norfolk Island

Norfolk Island Act<sup>4</sup>

1913-1935

10. The Governor-General, or any person authorised by him, may, in accordance with law, make grants or other dispositions of Crown lands in Norfolk Island.

14. The revenue of Norfolk Island shall be available for defraying the expenditure thereof.

16. *Restrictions on Alcoholic Liquors.*

### Northern Territory

Northern Territory (Administration) Act, 1910-1940<sup>5</sup>

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<sup>1</sup> For New Guinea see pp. 623-624; for Papua see pp. 629-630.

<sup>2</sup> Act. No. 8, 1933.

<sup>3</sup> Act No. 25, 1910, as amended by No. 9, 1927; No. 44, 1928; No. 2, 1930; No. 9, 1931; No. 4, 1933; No. 86, 1939; and No. 14, 1940.

<sup>4</sup> Text from *Australia, Commonwealth Acts, 1901-1935*, Vol. III, pp. 2783-2788.

<sup>5</sup> Act No. 27, 1910, as amended by No. 19, 1926; Nos. 5 and 7, 1931; No. 18, 1933; No. 85, 1939; Nos. 20 and 87, 1940.

## COOK ISLANDS

The Cook Islands Act, 1915<sup>1</sup>

*The New Zealand Act No. 40 of 11 October 1915*

### PART I. EXECUTIVE GOVERNMENT OF THE COOK ISLANDS

#### *The Public Revenues of the Cook Islands*

36. *Revenues raised by Island Ordinances.* Notwithstanding anything hereinbefore contained, all public revenues of the Cook Islands derived from taxes or fees imposed in any island by any ordinance thereof shall be expended solely for the purpose to which such revenues are appropriated by any such ordinance; and, in default of any such appropriation, shall be expended exclusively for the public purposes of the island from which such revenues have been derived.

#### *Public Health*

42-43. *Substantially identical with secs. 37 and 38 of the Samoe Act, p. 632.*

#### *Prisons and Police*

49. *Compulsory labour in lieu of imprisonment.* (1) Any person sentenced to imprisonment or committed to prison in the Cook Islands may, by order of a Judge of the High Court made either at the time of sentence or committal or at any time thereafter, be discharged from custody on condition that he labours on the roads or other public works of those islands for the term or the residue of the term for which he has been so sentenced or committed.

.....

#### *Education*

51. *Substantially identical with sec. 43 of the Samoe Act, p. 632.*

#### *Communication between the Islands*

52. *Acquisition and use of ship for the public service.* (1) The Minister may from time to time purchase out of moneys appropriated by Parliament from the Public Account for that purpose a suitable ship for the service of the Government of the Cook Islands.

.....

(3) Such ship may also be used, so far as the Resident Commissioner thinks fit, for the carriage otherwise than on the public service of passengers and cargo between those islands.

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<sup>1</sup>Text from *The Public Acts of New Zealand* (reprint), 1908-1931, Vol. 2, pp. 658-791.

## PART X. CROWN LAND

355. *Grants of Crown land.* (1) Subject to any regulations which may be made in that behalf, the Governor-General may grant Crown land in the Cook Islands in fee-simple, or may grant in respect of such land any lease, license, easement, or other limited estate, right, or interest, or may accept a surrender of any estate, right, or interest in such land.

(2) In the case of Crown land reserved or set apart for any public purpose, no such grant shall be made except so far as consistent with that purpose.

.....

356. *Reserves of Crown land for public purposes.* Any Crown land in the Cook Islands may by Order in Council be set aside as a reserve for any public purpose, and shall be reserved and used for that purpose accordingly, but any such Order in Council may be at any time revoked.

357. *Taking of land for public purposes.* The Governor-General may by Order in Council take any land in the Cook Islands for any public purpose specified in the order, and it shall thereupon become absolutely vested in His Majesty as from the date of such order, or from any later date specified therein in that behalf, free from all estates, rights, and interests of any other person therein, save so far as any such estates, rights, or interests are expressly saved by such order.

359. *Compensation for land taken.* (1) When any land has been so taken for a public purpose all persons having in respect of that land any right, title, estate, or interest which is extinguished or divested by the taking of the land shall be entitled to compensation therefor from the Crown.

.....

(4) If the land so taken is Native customary land, the Native Land Court shall, on the requisition of the High Court, investigate the customary title to that land, and shall determine by order the persons entitled thereto, and the relative interests of those persons, and the High Court shall thereupon assess and award compensation accordingly.

360. *Resumption of Crown land for public purposes.* (1) The Governor-General may by Order in Council resume for any public purpose specified in the order any Crown land held under lease or otherwise subject to any right, title, or interest in any other person, and every such lease, right, title, or interest shall in accordance with the tenor of the order determine accordingly, save so far as expressly preserved thereby.

(2) All persons entitled to any lease, right, title, or interest so determined shall be entitled to compensation in the same manner as in the case of land taken for public purposes.

364. *"Public purposes" defined.* The term "public purposes" as used in this Act includes naval and military defence, education, public health, pearl and other fisheries, public buildings, wharves, jetties, harbours, prisons, water-supply, sites for townships, public recreation, the burial of the dead, all purposes for which money is appropriated by Parliament, and all lawful purposes and functions of the Government of the Cook Islands.

## PART XI. THE NATIVE LAND COURT

409. *Miscellaneous jurisdiction of Native Land Court.* In addition to the jurisdiction elsewhere conferred upon the Native Land Court by this Act, that Court shall have jurisdiction:

- (a) To hear and determine as between Natives any claim to the ownership or possession of Native freehold land, or to any right, title, estate, or interest in such land or in the proceeds of any alienation thereof;
- (b) To determine the relative interests of the owners in common of Native freehold land, whether any of those owners are Natives or Europeans;
- (c) To hear and determine as between Natives any claim to recover damages for trespass or any other injury to Native freehold land;
- (d) To grant an injunction against any Native in respect of actual or threatened trespass or other injury to Native freehold land;
- (e) To grant an injunction prohibiting any person from dealing with or doing any injury to any property which is the subject matter of any application to the Court;
- (f) To hear and determine any question as to the right of any person to hold office as an Ariki or other Native chief of any island.

## PART XII. CUSTOMARY LAND

422. *Native customs to be recognised.* Every title to and interest in customary land shall be determined according to the ancient custom and usage of the Natives of the Cook Islands.<sup>1</sup>

## PART XVI. ALIENATION OF NATIVE LAND

### *Restrictions on Alienation*

466. . . . .

(2) Subject to the provisions of this Act, a Native may alienate or dispose of any land or of any interest therein in the same manner as a European, and Native land or any interest therein may be alienated or disposed of in the same manner as if it was European land.

467. *Alienation of customary land prohibited.* No person shall be capable of making, whether by will or otherwise, and whether in favour of a Native or of a European or of the Crown, any alienation or disposition of customary land or of any interest therein.<sup>2</sup>

### *Native Reservations*

487. *Governor-General in Council may establish Native reservations.* (1) When any Native land, whether freehold or customary, is owned by more than ten owners in common, whether at law or in equity, the Governor-General may by Order in Council, on the recommendation of a Judge of the Native Land Court, set apart and reserve that land or any part thereof for the common use of the owners thereof as a burial-ground, fishing-ground, village, landing-place, place of historical or scenic interest, source of water-supply, church-site, building-site, recreation-ground, bathing-place, or for the common use of the owners thereof in any other manner.

(2) Any Native land so set aside and reserved is herein referred to as a Native reservation.

489. *Reservations inalienable.* Land included in a Native reservation shall be inalienable, whether to the Crown or to any other person, and whether by will or otherwise; and no freehold order, partition order, or order of exchange shall be made in respect thereof.

<sup>1</sup> More detailed provisions regarding customary land are contained in sections 417-444.

<sup>2</sup> Further restrictions upon alienation are contained in sections 469-486.

490. *Ordinances as to reservations.* The Island Council may make such ordinances as it thinks fit for the management and control of any Native reservation.

*Miscellaneous*

491. *Native land not to be taken in execution.* (1) No interest of any person in customary land, and no interest of a Native in Native land, shall be capable of being taken in execution or otherwise rendered available by any form of judicial process for the payment of his debts or liabilities, whether in favour of His Majesty or in favour of any other person.

(2) Nothing in this section shall affect the operation of any charge to which Native land is subject.

PART XXII. INTOXICATING LIQUOR

595. *Manufacture of intoxicating liquor is prohibited.*<sup>1</sup>

PART XXIV. THE LAWS OF THE COOK ISLANDS: GENERAL PROVISIONS

*Application of the Laws of New Zealand*

*Miscellaneous Rules of Law*

645. *Contracts by Natives.* The jurisdiction of the High Court or of any other court in the Cook Islands to enforce any contract made by a Native (other than a contract of alienation of Native land duly confirmed by the Native Land Court) shall be discretionary; and if the Court is of opinion, having regard to the interests of the Native, that the contract is oppressive, unreasonable, or improvident, the court may either refuse to enforce the contract or may enforce it only to such extent and on such terms as the court thinks fit.

647. *Employer's liability.* When in any action for damages the cause of action depends on the negligence of a servant of the defendant, it shall be no defence that the plaintiff was engaged in common employment with that servant.

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**FIJI**

Letters Patent Constituting the Office of Governor and  
Commander-in-Chief of the Colony of Fiji, and  
Providing for the Government thereof<sup>2</sup>

*2 April 1937*

10. There shall be a Legislative Council for the Colony and the said Council shall consist of the Governor as President, three *ex officio* Members, thirteen

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<sup>1</sup> More detailed provisions regarding intoxicating liquors are contained in sections 595-603.

<sup>2</sup> Text from *Statutory Rules and Orders*, 1937, p. 2383.

The Constitution of the Tovata or Confederation of Chiefs in Fiji of 13 February 1867 (prior to the British annexation) included the following provisions:

10. Throughout the Confederation, it shall be lawful for any foreigners to buy or to sell, to transfer or to hold in fee-simple, real estate, and all their goods shall be

official Members, five European Members, of whom three shall be elected and two nominated, five Native Members, and five Indian Members, of whom three shall be elected and two nominated.

16. The Native Members shall be nominated as follows:

- (1) The Great Council of Native Chiefs in the Colony shall at the Meeting held by the said Great Council next following a dissolution of the Legislative Council, or when required to do so, submit to the Governor the names of not less than seven, nor more than ten persons, being aboriginal Natives of the Colony, who are able to speak and understand the English language, and from the persons submitted the Governor shall select five persons who shall upon such selection be and become Members of the Legislative Council; provided that the Governor may, without assigning any reason, require the said Great Council to submit the names of other persons qualified as aforesaid in addition to the persons first submitted.

.....

52. The Governor, in Our name and on Our behalf, may make and execute under the Public Seal of the Colony grants and dispositions of any lands or other immovable property which may be lawfully granted and disposed of by Us within the Colony, provided that every such grant or disposition be made in conformity with some law in force in the Colony, or with some Instructions addressed to the Governor under Our Sign Manual and Signet or through the Secretary of State, or in conformity with such regulations made by the Governor in that behalf either before or after the date upon which these Letters Patent come into operation, and duly published in the Colony.

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## FRENCH ESTABLISHMENTS IN OCEANIA (TAHITI)

Organic Decree of 28 December 1885, as Amended<sup>1</sup>

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respected, and no-one shall be permitted to do them any wrong. The head of every Chiefdom shall please himself as to the selling of lands.

11. It shall be unlawful to wrong or to maltreat anyone on account of his religious opinions, or of his scruples of conscience, provided that they are not made a ground for ignoring the Government of the district in which he may be residing. *Constitution and Laws of the Tovata, or Confederation of Chiefs in Fiji*, p. 5.

<sup>1</sup> This and later decrees are summarised in Arthur GIRAULT: *Principes de colonisation et de législation coloniale*, 5th edition, Vol. II, 1929, pp. 108-110.



## ISLANDS SUBJECT TO JAPANESE MANDATE

### Mandate for Islands of Northern Pacific<sup>1</sup>

17 December 1920

2. . . . .

The Mandatory shall promote to the utmost the material and moral well-being and the social progress of the inhabitants of the territory subject to the present mandate.

3. The Mandatory shall see that the slave trade is prohibited and that no forced labour is permitted, except for essential public works and services, and then only for adequate remuneration.

The Mandatory shall also see that the traffic in arms and ammunition is controlled in accordance with principles analogous to those laid down in the Convention relating to the control of the arms traffic, signed on September 10th, 1919, or in any convention amending same.

The supply of intoxicating spirits and beverages to the Natives shall be prohibited.

4. The military training of the Natives, otherwise than for purposes of internal police and the local defence of the territory, shall be prohibited. Furthermore, no military or naval bases shall be established or fortifications erected in the territory.

5. Subject to the provisions of any local law for the maintenance of public order and public morals, the Mandatory shall ensure in the territory freedom of conscience and the free exercise of all forms of worship, and shall allow all missionaries, nationals of any States Member of the League of Nations, to enter into, travel and reside in the territory for the purpose of prosecuting their calling.

6. The Mandatory shall make to the Council of the League of Nations an annual report to the satisfaction of the Council, containing full information with regard to the territory, and indicating the measures taken to carry out the obligations assumed under articles 2, 3, 4, and 5.

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## NAURU

### Mandate for Nauru<sup>2</sup>

17 December 1920

2. (Second paragraph), 3, 4, 5 and 6. *Identical with the corresponding provisions of the Mandate for the Islands of the Northern Pacific, above.*

### Nauru Island Agreement Act, 1920<sup>3</sup>

#### CHAPTER 27. CONFIRMATION OF AGREEMENT

1. (1) The Agreement is hereby confirmed subject to the provisions of article 22 of the Covenant of the League of Nations.

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<sup>1</sup> Text from HUDSON: *International Legislation*, Vol. I, 1919-1921, pp. 48-50.

<sup>2</sup> Text from *ibid.*, pp. 50-53.

<sup>3</sup> Text from *Law Reports — Statutes*, 10-11, Geo. V, Vol. LVIII, 1920, ch. 27.

## SCHEDULE

1. The administration of the Island shall be vested in an Administrator.

The first Administrator shall be appointed for a term of five years by the Australian Government, and thereafter the Administrator shall be appointed in such manner as the three Governments decide.

The Administrator shall have power to make ordinances for the peace, order, and good government of the Island, subject to the terms of this Agreement, and particularly (but so as not to limit the generality of the foregoing provisions of this article) to provide for the education of children on the Island, to establish and maintain the necessary police force, and to establish and appoint courts and magistrates with civil and criminal jurisdiction.

2. All the expenses of the administration (including the remuneration of the Administrator and of the Commissioners), so far as they are not met by other revenue, shall be defrayed out of the proceeds of the sales of the phosphates.

6. The title to the phosphate deposits on the Island of Nauru and to all land, buildings, plant and equipment on the Island used in connection with the working of the deposits shall be vested in the Commissioners.

7. Any right, title or interest which the Pacific Phosphate Company or any person may have in the said deposits, land, buildings, plant and equipment (so far as such right, title and interest is not dealt with by the Treaty of Peace) shall be converted into a claim for compensation at a fair valuation.

8. The amount of the said compensation shall be contributed by the Governments of the United Kingdom, the Commonwealth of Australia, and the Dominion of New Zealand in proportions to be mutually agreed upon, or in the event of their failing to agree within three months of this Agreement coming into force, then in the same proportions as the first allotment of phosphates under article 14 of this Agreement. Any other capital necessary for working expenses shall be contributed by the three Governments in the same proportions.

9. The deposits shall be worked and sold under the direction, management and control of the Commissioners, subject to the terms of this Agreement.

It shall be the duty of the Commissioners to dispose of the phosphates for the purpose of the agricultural requirements of the United Kingdom, Australia and New Zealand, so far as those requirements extend.

10. The Commissioners shall not, except with the unanimous consent of the three Commissioners, sell or supply any phosphates to, or for shipment to, any country or place other than the United Kingdom, Australia or New Zealand.

11. Phosphates shall be supplied to the United Kingdom, Australia and New Zealand at the same f.o.b. price, to be fixed by the Commissioners on a basis which will cover working expenses, cost of management, contribution to administrative expenses, interest on capital, a sinking fund for the redemption of capital, and for other purposes unanimously agreed on by the Commissioners and other charges.

Any phosphates not required by the three Governments may be sold by the Commissioners at the best price obtainable.

12. All expenses, costs and charges shall be debited against receipts; and if by reason of sales to countries other than the United Kingdom, Australia, or New Zealand, or by other means or circumstances, any surplus funds are accumulated, they shall be credited by the Commissioners to the three Governments in the proportion in which the three Governments have contributed under article 8 of this Agreement and held by the Commissioners in trust for the three Governments to such uses as those Governments may direct, or, if so directed by the Government for which they are held, shall be paid over to that Government.

13. There shall be no interference by any of the three Governments with the direction, management, or control of the business of working, shipping, or selling the phosphates, and each of the three Governments binds itself not to do or to

permit any act or thing contrary to or inconsistent with the terms and purposes of this Agreement.

14. Until the readjustment hereinafter mentioned, each of the three Governments shall be entitled to an allotment of the following proportions of the phosphates produced or estimated to be produced in each year, namely:

United Kingdom . . . . .	42 per cent.
Australia . . . . .	42 per cent.
New Zealand . . . . .	16 per cent.

Provided that such allotment shall be for home consumption for agricultural purposes in the country of allotment, and not for export.

At the expiration of the period of five years from the coming into force of this Agreement, and every five years thereafter, the basis of allotment shall be readjusted in accordance with the actual requirements of each country.

If in any year any of the three Governments does not require any portion of its allotment, the other Governments shall be entitled so far as their requirements for home consumption extend, to have that portion allotted among themselves in the proportions of the percentages to which they are entitled as above.

Where any proportion of the allotment of one of the Governments is not taken up by that Government, that Government shall, when the phosphates are sold, be credited with the amount of the cost price as fixed by the Commissioners under the first paragraph of article 11; but if such phosphates are sold to a purchaser other than one of the Governments, any profit above the said cost price shall be carried to the surplus fund mentioned in article 12.

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## NEW CALEDONIA

Organic Decree of 12 December 1874, as Amended<sup>1</sup>

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## NEW GUINEA

Mandate for New Guinea<sup>2</sup>

17 December 1920

2. (Second paragraph), 3, 4, 5 and 6. *Identical with the corresponding provisions of the Mandate for the Islands of the Northern Pacific, p. 621.*

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<sup>1</sup> This and later decrees are summarised in Arthur GIRAULT: *Principes de colonisation et de législation coloniale*, 5th edition, Vol. II, 1929, pp. 106-108.

<sup>2</sup> Text in HUDSON: *International Legislation*, Vol. I, 1919-1921, pp. 44-47.

New Guinea Act<sup>1</sup>

1920-1935

32. The Administrator shall not assent to any ordinance of any of the following classes, unless the ordinance contains a clause suspending its operation until the signification of the Governor-General's pleasure thereon:

- (b) Any ordinance dealing with the granting or disposal of Crown lands;
- (d) Any ordinance which appears inconsistent with the treaty obligations of the United Kingdom or of the Commonwealth;
- (f) Any ordinance of an extraordinary nature or importance, whereby the King's prerogative, or the rights or property of subjects of the King not residing in the Territory, or the trade or shipping of any part of the King's Dominions, may be prejudiced;
- (g) Any ordinance relating to the sale or disposition of or dealing with lands by aboriginal Natives of the Territory;
- (h) Any ordinance relating to Native labour, or providing for the deportation of aboriginal Natives from the Territory, or from one part of the Territory to another;
- (i) Any ordinance relating to the supply of arms, ammunition, explosives, intoxicants or opium to Natives;
- (j) Any ordinance relating to the introduction or immigration of aboriginal Natives of Australia, Asia, Africa or any island of the Pacific;
- (l) Any ordinance relating to any matter specified in section thirty-six of this Act.

## GUARANTEES

- 36. (1) The slave trade is prohibited in the Territory.
- (2) No forced labour shall be permitted in the Territory.
- (3) The traffic in arms and ammunition shall be controlled in the Territory in accordance with the principles contained in the Convention signed at Brussels on the second day of July, 1890, and known as the General Act of the Brussels Conference, or any Convention amending the same.
- (4) The supply of intoxicating spirits and beverages to the Natives of the Territory is prohibited.
- (5) The military training of the Natives of the Territory, otherwise than for purposes of internal police and the local defence of the Territory, is prohibited.
- (6) No military or naval base shall be established or fortifications erected in the Territory.
- (7) Freedom of conscience, and subject to the provisions of any ordinance for the maintenance of public order and morals, the free exercise of all forms of worship, shall be allowed in the Territory.

## REPORT TO LEAGUE OF NATIONS

37. The Minister shall make an annual report to the Council of the League of Nations containing full information as to the measures taken to carry out the requirements of the last preceding section, and as to the well-being and progress of the Native inhabitants of the Territory.

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<sup>1</sup> Text from *Australia, Commonwealth Acts 1901-1935*, Vol. III, pp. 2775-2783.

## NEW HEBRIDES

### Order in Council Providing for the Exercise of His Majesty's Jurisdiction, London, 20 June 1922<sup>1</sup>

2. The Protocol made the 6th day of August, 1914, between the Government of His Majesty the King and the Government of the French Republic in the terms set out in the Schedule to this Order shall have the force of law and shall be binding upon all persons within the said Islands over whom His Majesty shall at any time have jurisdiction, and the provisions of this Order and of all laws and regulations made thereunder shall be read and construed subject to the terms of the said Protocol in all respects.

#### SCHEDULE

Protocol respecting the New Hebrides, Signed at London,  
6 August 1914 by Representatives of the British  
and French Governments<sup>2</sup>

#### RECRUITMENT, ENGAGEMENT AND EMPLOYMENT OF NATIVE LABOURERS

31. *Recruitment.* (1) No vessel shall recruit native labourers in the New Hebrides, including the Banks and Torres Islands, unless she sails under the flag of one of the two signatory Powers, and unless she is provided with a recruiting licence issued by the Resident Commissioner representing the signatory Power under whose flag the vessel is sailing.

(7) Every master of a ship shall be bound, unless prevented by *force majeure*, to present himself before the Agent of the Power of which he is a dependant before leaving a district in which he has recruited any native labourers. He shall cause to appear before the Agent the Natives recruited in that district, and shall furnish him with all the information which may be required with regard to the circumstances connected with his recruiting operations. . .

(8) The two Resident Commissioners acting conjointly may prohibit or restrict recruiting in the whole or part of any island or islands for such period as they may consider such prohibition or restriction necessary.

32. *Register of Engagements.*

33. *Engagement of Women and Children.*

(1) Women shall only be engaged:

If they are married, with their husbands, regard being had to the customs existing in the Group, or in order to join their husbands, if the latter have been engaged previously.

If they are unmarried, with the consent of the Head of the Tribe, and of the Agent of the Administrative district, or, if there be no Agent, of the Inspector

<sup>1</sup> Text from *Constitutions of All Countries*, Vol. I, p. 673.

<sup>2</sup> Text from LEAGUE OF NATIONS: *Treaty Series*, Vol. X, pp. 335-405. In addition to the articles included here, articles 22-27, which relate to land suits, and 28-30 which relate to the supervision of shipping, also have a bearing upon social policy, but have been excluded on the ground that their length is disproportionate to their importance for the purpose of the present collection.

of Labour of the one or the other nationality, according to the law applicable to the recruiter.

(2) Children shall only be engaged if, in the opinion of the Resident Commissioner or of the Agent concerned, they appear capable, having regard to their age or physical development, of carrying out the work for which they are engaged.

34. *Length of Engagements.* (1) No engagement shall be concluded for more than three years.

.....  
35. *Deaths on Board Recruiting Vessels.*

(1) A report on every death occurring on board a recruiting vessel shall be immediately drawn up in duplicate by the master. Such report shall describe the circumstances under which the death occurred.

(2) Within twenty-four hours an inventory in duplicate shall also be drawn up of the effects left on board by the deceased. The amount of the wages to which the labourer is entitled from the day of engagement to the day of his death shall be stated in this inventory.

36. *Illness of Labourers on Landing.*

37. *Delivery of Labourers to their Employers.*

38. *Submission of Registers of Engagements on Arrival.*

39. *Notification of Engagements.*

40. *Re-engagement.* (1) At the termination of the period of his engagement, the labourer shall not, unless he has been previously sent home, enter into a fresh engagement without an authority in writing from the Resident Commissioner entitled to receive the notification of engagement, or from the person appointed for the purpose.

.....  
41. *Records of Engagements.*

42. *Additional Periods of Work.*

43. *Transfer of Engagements.*

44. *Duties of Employers.* (1) Employers and all persons in their employment exercising any kind of authority over their labourers must treat such labourers with kindness. They shall refrain from all violence towards them.

(2) They must supply them with sufficient food, according to the custom of the country, including rice, at least once a day, as part of their meals.

The Resident Commissioners shall fix jointly the proportion of rice to be included in the diet of labourers.

(3) Employers and all persons in their employment exercising any kind of authority over their labourers must further provide the labourers with adequate shelter, the necessary clothing, and medical care in case of illness.

45. *Working Hours.* (1) Labourers shall not be obliged to work except between sunrise and sunset.

(2) They shall have daily, at the time of their midday meal, at least one clear hour of rest.

(3) Except for domestic duties and the care of animals, labourers shall not be obliged to work on Sundays.

46. *Payment of Wages.* (1) Wages shall be paid exclusively in cash.

(2) Payment shall be made either before a person appointed for the purpose by the Resident Commissioner entitled to receive the notification of engagement or, failing this, in the presence of two non-native witnesses, who shall certify the payment in the record above referred to by affixing their signatures by the side of that of the employer.

(3) When it is obviously impossible for an employer to make use of this method of verification, he shall himself be authorised by the competent Resident Commissioner, or by the person appointed for the purpose, to enter the payment of the wages in the record.

(4) Whenever the record does not show the rate of wages agreed upon at

the time of the engagement, the rate shall be taken to be 10s. a month, and the employer shall not be allowed to produce evidence to show that a lower rate had been agreed upon.

47. *Deferred Pay.*

48. *Disciplinary Punishments.*

49. *Absence without Good Cause.*

50. *Death During Engagement.*

51. *Repatriation.* (1) Every labourer who has completed his term of engagement, and who has not entered into a fresh engagement under the conditions laid down in article 40 of the present Convention, shall be returned to his home at the first convenient opportunity by and at the expense of the employer.

.....

(4) In case of persistent ill-treatment of a labourer, the Resident Commissioner concerned shall have the right to cancel the contract and provide at the expense of the employer for the return of the labourer to his home.

(5) The Resident Commissioner concerned may in like manner cancel the contract and return a labourer to his home if the labourer did not freely consent to the engagement, or if he did not clearly understand and freely accept the terms of the engagement. In that case the expenses of returning him to his home shall be borne by the recruiter or employer.

52. *Register of Repatriation.*

53. *Death during the Return Passage.*

54. *Powers of Control and Inspection of Native Labour — Administrative Measures to be Taken in Regard to the Estates of Native Labourers.*

.....

(4) With a view to the execution of the provisions of the Convention concerning the employment of native labour and of the regulations made for carrying such provisions into effect, each of the High Commissioners may appoint one or more inspectors of labour who shall supervise, under the authority of the Resident Commissioner, and in such manner as may be fixed by the High Commissioner, the employment of native labour, and shall for this purpose visit as frequently as possible the plantations or other properties belonging to dependants of the Power to which such inspectors belong. The inspectors shall receive and investigate all complaints of native labourers brought to their notice either verbally or in writing, and they shall furnish their respective Resident Commissioners with an account of their proceedings. After taking cognisance of these reports, the Resident Commissioners shall, where necessary, take the requisite steps to put an end to any irregularities or abuses notified.

Employers, and all persons in their employment, shall be required to furnish inspectors of labour with all information which they may require, and to assist them as far as may be necessary in the performance of their duties.

(5) *Estates of Deceased Labourers.*

55. *Short Engagements and Employment of Native Labourers without Contract.*

56. *Penalties.*

57. *Prohibition of the Sale of Arms and Ammunition to Natives.*

58. *Exceptions.*

59. *Prohibition of the Sale of Alcoholic Liquors to Natives.*

60. *Report of Offences.*

61. *Penalties.*

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## NEW ZEALAND

### Treaty of Waitangi, 6 February 1840<sup>1</sup>

2. Her Majesty the Queen of England confirms and guarantees to the Chiefs and Tribes of New Zealand and to the respective families and individuals thereof the full exclusive and undisturbed possession of their Lands and Estates, Forests, Fisheries and other properties which they may collectively or individually possess so long as it is their wish and desire to retain the same in their possession; but the Chiefs of the United Tribes and the individual Chiefs yield to Her Majesty the exclusive right of Pre-emption over such lands as the proprietors thereof may be disposed to alienate at such prices as may be agreed upon between the respective proprietors and persons appointed by Her Majesty to treat with them in that behalf.

### Imperial Act to Grant a Representative Constitution, 30 June 1852<sup>2</sup>

71. And whereas it may be expedient that the laws, customs and usages of the aboriginal or native inhabitants of New Zealand, so far as they are not repugnant to the general principles of humanity, should for the present be maintained for the government of themselves, in all their relations to and dealings with each other, and that particular districts should be set apart within which such laws, customs or usages should be so observed:

It shall be lawful for Her Majesty, by any Letters Patent to be issued under the Great Seal of the United Kingdom, from time to time to make provision for the purpose aforesaid, any repugnancy of any such native laws, customs or usages to the law of England, or to any law, statute or usage in force in New Zealand, or in any part thereof, in any wise notwithstanding.<sup>3</sup>

### Letters Patent Constituting the Office of Governor-General and Commander-in-Chief, 11 May 1917<sup>4</sup>

6. *Substantially identical with Malta Letters Patent, paragraph 8, p. 96.*

### Royal Instructions to the Governor-General and Commander-in-Chief, 11 May 1917<sup>5</sup>

.....

<sup>1</sup>Text from *The Public Acts of New Zealand* (reprint), 1908-1931, Vol. 6, pp. 101-102.

<sup>2</sup>Text from *Constitutions of All Countries*, Vol. I, pp. 113-136.

<sup>3</sup>The Act originally included more detailed provisions regarding good lands of aboriginal native tribes and waste lands (sections 73-79), but these have been repealed.

<sup>4</sup>Text in *Constitutions of All Countries*, Vol. I, pp. 126-130 or *Statutory Rules and Orders*, 1917, p. 1141, with amendment in *idem*, Vol. II, 1918, p. 1074.

<sup>5</sup>Text in *Constitutions of All Countries*, Vol. I, pp. 130-132 or *New Zealand Gazette*, 14 Apr. 1919.



## PAPUA

Papua Act<sup>1</sup>

1905-1934

20. (1) The Lieutenant-Governor may make and execute under the Public Seal of the Territory, in the name and on behalf of the King, grants and dispositions of any land within the Territory which may be lawfully granted or disposed of in the name of the King, but so that:

- (a) No freehold estate in any such land shall be granted or disposed of except in pursuance of rights of purchase acquired under the law of British New Guinea before the commencement of this Act; and
- (b) The rental of all such land granted or disposed of by way of lease shall be assessed on the unimproved value of the land, and shall be subject to re-assessment at such periods and in such modes as are fixed by ordinance. The periods and modes may be different for different classes of land and for different classes of lease.

(2) Notwithstanding anything contained in this section the Lieutenant-Governor may:

- (a) Transfer Crown land to Natives; and
- (b) Accept transfers from Natives of land in exchange for any land transferred to them under the last preceding paragraph.

(3) The Lieutenant-Governor may, by order published in the *Gazette* of the Territory, cancel any lease or purchase of land from Natives (where the lessee or purchaser has not transferred the land to any other person) and, upon the publication of the order, the land referred to therein shall revert in the persons entitled to the land immediately prior to the lease or purchase, for such estate as they then had in the land.

21. (*Prohibition against supply of intoxicating liquor to Natives; intoxicating liquor in possession of Natives.*)

(9) In this section:

- (a) "Licence" means a licence for the sale of intoxicating liquor;
- (b) "Intoxicating liquor" means any spirituous or fermented liquor of an intoxicating nature used or intended to be used as a beverage;
- (c) "Native" means any person in the Territory not of European descent.

37. The Legislative Council shall not by any ordinance impose higher duties upon the importation into the Territory of any goods produced or manufactured in or imported from Australia than are imposed on the importation into the Territory of the like goods produced or manufactured in or imported from other countries.

41. The Lieutenant-Governor shall not assent to any ordinance of any of the following classes, unless the ordinance contains a clause suspending its operation until the signification of the Governor-General's pleasure thereon:

- (1) Any ordinance for divorce.
- (2) Any ordinance dealing with the granting or disposal of Crown lands.
- (3) Any ordinance whereby any lease or grant of land or money or any donation or gratuity is made to himself.

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<sup>1</sup> Text from *Australia, Commonwealth Acts 1901-1935*, Vol. III, pp. 2804-2816.

- (4) Any ordinance which appears inconsistent with the treaty obligations of the United Kingdom or of the Commonwealth.
- (5) Any ordinance interfering with the discipline or control of the naval or military forces of the King.
- (6) Any ordinance of an extraordinary nature or importance, whereby the King's prerogative, or the rights or property of subjects of the King not residing in the Territory, or the trade or shipping of any part of the King's Dominions, may be prejudiced.
- (7) Any ordinance relating to the sale or disposition of or dealing with lands by aboriginal Natives of the Territory.
- (8) Any ordinance relating to native labour, or providing for the deportation of aboriginal Natives from the Territory, or from one part of the Territory to another.
- (9) Any ordinance relating to the supply of arms, ammunition, explosives, intoxicants, or opium to Natives.
- (10) Any ordinance relating to the introduction or immigration of aboriginal Natives of Australia, Asia, Africa, or any island of the Pacific.
- (11) Any ordinance containing provisions from which the assent of the Sovereign or of the Governor-General has once been withheld, or which the Sovereign or the Governor-General has disallowed.

*Classes 2, 4, 6, 7, 8, 9 and 10 are identical with classes b, d, f, g, h, i and j of section 32 of the New Guinea Act, p. 624.*

46. The revenues of the Territory shall be available for defraying the expenditure thereof. . .

48. (1) A sum equal to ten per centum of the territorial revenue arising out of the lease of Crown lands shall in each year be appropriated for the maintenance and welfare of infirm or destitute aboriginal Natives (including half-castes) of the Territory.

(2) The sum so obtained shall be vested in three trustees appointed by the Governor-General, who shall hold office during His Excellency's pleasure and furnish a report of their proceedings annually for presentation to Parliament.

(3) If in any year the whole of the sum so obtained is not expended, the unexpended balance thereof shall be retained by the trustees and expended for the purpose aforesaid in any subsequent year.

50. There shall be paid out of the Consolidated Revenue Fund of the Commonwealth towards the revenues of the Territory in each financial year such sum, if any, as the Parliament appropriates for that purpose.

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## ROSS DEPENDENCY

### Order in Council Providing for the Government<sup>1</sup>

30 July 1923

5. The Governor is authorised to make and execute, on His Majesty's behalf, grants and dispositions of any lands which may lawfully be granted or disposed of by His Majesty within the said Dependency, in conformity with such rules and regulations as may from time to time be in force in the Dependency.

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<sup>1</sup> Text from *British and Foreign State Papers*, Vol. 117, 1923, part I, pp. 91-92; *London Gazette*, 31 July 1923.

**SAMOA****Eastern Samoa****United States Statute<sup>1</sup>***20 February 1929*

§ 1431 *a. Islands of Tutuila, Manua, and Eastern Samoa; ceded to and accepted by United States; Revenue; Government.*

(a) The cessions by certain Chiefs of the Islands of Tutuila and Manua and certain other islands of the Samoan group lying between the thirteenth and fifteenth degrees of latitude south of the Equator and between the one hundred and sixty-seventh and one hundred and seventy-first degrees of longitude west of Greenwich, herein referred to as the Islands of Eastern Samoa, are accepted, ratified, and confirmed, as of April 10, 1900, and July 16, 1904, respectively.

(b) The existing laws of the United States relative to public lands shall not apply to such lands in the said Islands of Eastern Samoa; but the Congress of the United States shall enact special laws for their management and disposition; provided, that all revenue from or proceeds of the same, except as regards such part thereof as may be used or occupied for the civil, military, or naval purposes of the United States or may be assigned for the use of the local Government, shall be used solely for the benefit of the inhabitants of the said Islands of Eastern Samoa for educational and other public purposes.

(d) The President shall appoint six commissioners, two of whom shall be members of the Senate, two of whom shall be members of the House of Representatives, and two of whom shall be Chiefs of the said Islands of Eastern Samoa, who shall, as soon as reasonably practicable, recommend to Congress such legislation concerning the Islands of Eastern Samoa as they shall deem necessary or proper.

**Western Samoa****Mandate for Samoa<sup>2</sup>***17 December 1920*

2. (Second paragraph), 3, 4, 5 and 6. *Identical with the corresponding provisions of the Mandate for the Islands of the Northern Pacific, p. 621.*

**The Samoa Act 1921<sup>3</sup>***New Zealand Act No. 16 of 7 December 1921***PART I. THE EXECUTIVE GOVERNMENT OF SAMOA***The Samoan Treasury*

33. *Loans to Samoan Treasury.* (1) Out of moneys appropriated by Parlia-

<sup>1</sup> *United States Code*, 1940 edition, Vol. III, Title 48, "Territories and Insular Possessions", p. 4271.

<sup>2</sup> Text in HUDSON: *International Legislation*, Vol. I, 1919-1921, pp. 54-57.

<sup>3</sup> *The Public Acts of New Zealand* (reprint), 1908-1931, Vol. II, pp. 791-880.

ment for that purpose the Minister of Finance may from time to time, under the authority of and in accordance with an authorising Order in Council, issue out of the Public Account and pay into the Samoan Treasury by way of loan such sums as may be required by way of capital expenditure for the provision of public buildings, roads, harbour-works, water-supply, drainage, and other public works or purposes in Samoa.

.....

### *Public Health*

37. *Duties of Medical Officers.* (1) It shall be the duty of the Medical Officers to provide for all persons in Samoa such medical and surgical aid and attendance as may be reasonably required and is reasonably practicable.

.....

38. *Hospitals and other institutions of public health.* The Administrator shall establish and maintain in Samoa such hospitals and other institutions as he may deem necessary for the public health, and all institutions so established shall be under the control of the Chief Medical Officer.

### *Education*

43. *Establishment of public schools.* (1) The Administrator may establish and maintain such public schools in Samoa as he deems necessary for the education of the Samoan or other inhabitants thereof.

.....

## PART IX. LAND

### *Crown Land*

269. *Grants of Crown land.* (1) The Governor-General may grant Crown land in Samoa in fee-simple, or may grant or authorise the Administrator to grant in respect of such land any lease, license, easement, or other limited estate, right, or interest, or may accept or authorise the Administrator to accept a surrender of any estate, right, or interest in such land.

.....

270. *Reserves of Crown lands for public purposes.* Any Crown land in Samoa may, by Order in Council, be set aside as a reserve for any public purpose, and shall, while such order remains in force, be reserved and used for that purpose accordingly.

271. *Taking of land for public purposes.* (1) Any European or Native land in Samoa may, by ordinance, be taken for any public purpose specified in the ordinance, and it shall thereupon become absolutely vested in His Majesty as from the coming into operation of that ordinance, or from any later date specified therein in that behalf, free from all estates, rights, and interests of any other person therein, save so far as any such estates, rights, or interests are expressly saved by such ordinance.

(2) When any land has been so taken for a public purpose all persons having in respect of that land any right, title, estate, or interest which is extinguished or divested by the taking of the land shall be entitled to compensation therefor from the Crown.

.....

(5) Any lease, easement, or other limited right, title, estate, or interest in any European or Native land may be taken by ordinance for any public purpose as aforesaid, and compensation in respect thereof shall be payable in the same manner as in the case of land taken under the foregoing provisions of this section.

272. *Resumption of Crown land for public purposes.* (1) Any Crown land held under lease or otherwise subject to any right, title, or interest in any other person may, by Order in Council, be resumed for any public purpose specified in the order, and in every such lease, right, title, or interest shall in accordance with the tenor of the order determine accordingly, save as far as expressly preserved thereby.

(2) All persons entitled to any lease, right, title, or interest so determined shall be entitled to compensation in the same manner as in the case of land taken for public purposes.

275. *"Public purposes" defined.* The term "public purposes" as used in this Act includes public health, education, public recreation, the burial of the dead, water-supply, drainage, lighting, the provision of public buildings, the provision of sites for townships, the provision of wharves, harbours, tramways, and railways, and all lawful purposes and functions of the Government of Samoa.

### *Native Land*

278. *Ownership in Native land.* All land in Samoa which at the commencement of this Act is held by Samoans by Native title is hereby vested in the Crown as the trustee of the beneficial owners thereof, and shall be held by the Crown subject to the Native title, and under the customs and usages of the Samoan race, and all such land is hereby declared to be Native land accordingly, but shall remain subject to any rights which may have been lawfully acquired in respect thereof before the commencement of this Act otherwise than in accordance with such customs and usages.<sup>1</sup>

## PART XIII. INTOXICATING LIQUOR

336. *Manufacture of intoxicating liquor prohibited.*<sup>2</sup> . .

## PART XV. THE LAWS OF SAMOA: GENERAL PROVISIONS

361. *Employers' liability.* When in any action for damages the cause of action depends on the negligence of a servant of the defendant, it shall be no defence that the plaintiff was engaged in common employment with that servant.

366. *Contracts by Samoans.* The jurisdiction of the High Court or of any other Court in Samoa to enforce any contract made by a Samoan shall be discretionary; and if the court is of opinion, having regard to the interests of the Samoan, that the contract is oppressive, unreasonable, or improvident, the court may either refuse to enforce the contract or may enforce it only to such extent or on such terms or with such modifications as the court thinks fit.

363. *Banking.* . .

364. *Currency.* . .

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<sup>1</sup> More detailed provisions regarding Native land are contained in sections 279-283.

<sup>2</sup> More detailed provisions regarding intoxicating liquor are contained in sections 337-341.

## WESTERN PACIFIC ISLANDS

### Order in Council Providing for the Exercise of Jurisdiction in Certain Islands and Places<sup>1</sup>

*15 March 1893, as Amended 1907, 1908 and 1910*

53. A person shall be deemed guilty of an offence against this Order:

.....

(3) Who, without reasonable and lawful excuse (proof of which shall lie on the accused person), endangers peace by disturbing any religious ceremony or observance, or publicly insulting any minister of any religion, or violating or insulting any place or object of religious worship, or doing any other act of a similar nature, whether in relation to any native or other form of religion or superstition.

## Gilbert and Ellice Islands

### Order in Council Annexing the Gilbert and Ellice Islands and Providing for the Government thereof<sup>2</sup>

*10 November 1915*

8. In the exercise of the powers and authorities hereby conferred upon him, the High Commissioner may, amongst other things, from time to time, by ordinance, provide for the administration of justice, the raising of revenue, and generally for the peace, order, and good government of the Colony, and of all persons therein, including the prohibition and punishment of acts tending to disturb the public peace. Provided as follows:

(1) That nothing in any such ordinance or ordinances contained shall take away or affect any rights secured to any Native in the Colony by any treaties or agreements made on behalf or with the sanction of Her late Majesty Queen Victoria, His late Majesty King Edward VII, or His Majesty, and all such treaties and agreements shall be and remain operative and in force, and all pledges and undertakings therein contained shall remain mutually binding on all parties to the same.

.....

(3) That the High Commissioner, in making ordinances, shall respect any Native laws and customs by which the civil relations of any Native Chiefs, tribes, or populations under His Majesty's protection are now regulated, except so far as the same may be incompatible with the due exercise of His Majesty's power and jurisdiction, or clearly injurious to the welfare of the said Natives.

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<sup>1</sup> Text from *Constitutions of All Countries*, Vol. I, p. 640.

<sup>2</sup> *Ibid.*, pp. 653-654.

## Tonga

### Constitution of the Kingdom of Tonga<sup>1</sup>

*4 November 1875, as Amended to 16 August 1933*

#### I. DECLARATION OF RIGHTS

1. Since it appears to be the will of God that man should be free, as He has made all men of one blood, therefore shall the people of Tonga and all who sojourn or may sojourn in this Kingdom be free forever. And all men may use their lives and persons and time to acquire and possess property and to dispose of their labour and the fruit of their hands and to use their own property as they will.

2. No person shall serve another against his will except he be undergoing punishment by law, and any slave who may escape from a foreign Government to Tonga (unless he be escaping from justice, being guilty of homicide or larceny or any great crime or involved in debt) shall be free from the moment he sets foot on Tongan soil, for no person shall be in servitude under the protection of the flag of Tonga.

3. Whoever may wish to bring persons from other islands to work for him may make an agreement with them for the number of years they will work for him, and a copy of the written agreement he makes with them shall be deposited in the Public Offices, stating the amount of payment they shall receive, the permit they shall work, and a promise to take them back to their own land. And the Government shall cause such contract to be carried out, both on behalf of those who engage and those who are engaged. And such persons being so introduced shall be subject to the laws of the land and shall pay the same customs duties as all the people in the Kingdom and taxes as shall be ordained by the Queen and her Cabinet. No Asiatic labourers (including Javanese) shall be admitted to the Kingdom unless they come as labourers under a labour contract approved of by the Government.

4. There shall be but one law in Tonga for chiefs and commoners, for Europeans and Tongans. No law shall be enacted for one class and not for another class, but the law shall be the same for all the people of this land.

5. All men are free to practise their religion and to worship God as they may deem fit in accordance with the dictates of their own consciences and to assemble for religious service in such places as they may appoint. But it shall not be lawful to use this freedom to commit evil and licentious acts or under the name of worship to do what is contrary to the law and peace of the land.

6. The Sabbath day shall be sacred in Tonga forever and it shall not be lawful to do work or play games or trade on the Sabbath. And any agreement made or document witnessed on this day shall be counted void and shall not be recognised by the Government.

7. It shall be lawful for all people to speak, write and print their opinions and no law shall ever be enacted to restrict this liberty. There shall be freedom of speech and of the press forever, but nothing in this clause shall be held to outweigh the law of slander or the laws for the protection of the Queen and the Royal Family.

8. All people shall be free to send letters or petitions to the Queen or Legislative Assembly and to meet and consult concerning matters about which they

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<sup>1</sup> Text from *British and Foreign State Papers*, Vol. 135, 1932, pp. 912-929. *Law of Tonga*, revised edition, 1929, p. 680 (as amended by Law No. 7 of 1933).

think it right to petition the Queen or Legislative Assembly to pass or repeal enactments, provided that they meet peaceably without arms and without disorder.

17. The Queen shall govern on behalf of all her people and so as not to enrich or benefit any one man or any one family or any one class, but without partiality for the good of all the people of her Kingdom.

18. All the people have the right to expect that the Government will protect their life, liberty and property, and therefore it is right for all the people to support and contribute to the Government according to law. And if at any time there should be a war in the land and the Government should take the property of anyone, the Government shall pay the fair value of such property to the owner. And if the Legislature shall resolve to take from any person or persons their premises or a part of their premises or their houses for the purpose of making Government roads or other work of benefit to the Government, the Government shall pay the fair value.

19. It shall not be lawful to increase or decrease the taxes or customs duties without the consent of the Legislative Assembly, nor shall any money be paid out of the Treasury or debts contracted by the Government but by vote of the Legislative Assembly, except in cases of war or rebellion or dangerous epidemic or a similar emergency, and in any such case it shall be done with the consent of the Cabinet, and the Queen shall at once convoke the Legislative Assembly and the Treasurer shall state the grounds for the expenditure and the amount. But nothing in this clause is to be deemed or taken to restrict the power of the Privy Council to impose such fees or taxes as it may deem necessary for the proper carrying out of any ordinance it may pass, but the Privy Council shall not have power to increase or decrease the taxes or customs duties.

26. Whoever shall be really poor, whether owing to sickness or old age, may be exempted from paying taxes, but it shall not be lawful to exempt any person who receives rents from leased land or any person who receives any pension or emolument from the Government.

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### III. THE LAND

100. All land is the property of the Queen, and she may at pleasure grant to the nobles and titular chiefs or *matabules* one or more estates to become their hereditary estates. It is hereby declared by this Constitution that it shall not be lawful for anyone at any time hereafter, whether she be the Queen or any one of the chiefs or the people of this country, to sell any land whatever in the Kingdom of Tonga, but they may lease it only in accordance with this Constitution. And this declaration shall become a covenant binding on the Queen and chiefs of this Kingdom for themselves and their heirs and successors forever.<sup>1</sup>

.....

110. It shall not be lawful for any noble, hereditary chief, or Tongan to lease any land to any foreigner without having first obtained the permission of the Cabinet.

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<sup>1</sup> More detailed provisions regarding leases are contained in articles 101-106.



# Africa

## ABYSSINIA

### Constitution of Abyssinia<sup>1</sup>

*16 July 1931*

#### CHAPTER III. RIGHTS OF THE NATION RECOGNISED BY THE EMPEROR AND DUTIES INCUMBENT UPON THE NATION

22. Abyssinian subjects have the right to move freely from one place to another within the limits prescribed by the law.

27. No-one shall have the right to take from an Abyssinian subject any real or personal property in his possession, except in cases of public interest specified by the law.

28. All Abyssinian subjects have the right to address petitions to the Government in due legal form.

29. The provisions of this chapter shall not preclude the taking of any measures by the Emperor in virtue of his supreme power in the event of war or public disaster threatening the interests of the Nation.

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## ALGERIA

### Decree concerning the Attributions of the Governor-General of Algeria<sup>2</sup>

*23 August 1898*

1. The Governor-General of Algeria is appointed by a Decree of the President of the Republic approved at a meeting of the Council of Ministers on the proposal of the Minister of the Interior. The Government and high administration of Algeria are centralised at Algiers under his authority.

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<sup>1</sup> English translation from DARESTE: *Les constitutions modernes*, 4th edition, Vol. V, 1933, p. 476.

<sup>2</sup> English translation from French text in *Revue algérienne et tunisienne de législation et de jurisprudence*, Vol. XV, 1899, pp. 160-165.

5. All the civil services of Algeria are placed under the direction of the Governor-General with the exception of the non-Moslem services for justice, religion and public education and the services of the treasury and the customs, which remain under the authority of the competent ministries. . .

### Decree concerning the Algerian Financial Delegations<sup>1</sup>

*23 August 1898*

The Algerian Financial Delegations represent the different categories of French taxpayers or subjects before the Governor-General, that is to say:

(1) Colonists — any holder of a concession for or proprietor of rural property as well as any head of the exploitation of or any farmer of such property is considered a colonist.

(2) Taxpayers other than colonists.

(3) Moslem natives.

2, 3, 4 and 5. *These articles define the composition of the three separate delegations for each of the above classes.*

8. Each delegation is consulted every year by the Governor-General on questions concerning the taxes, collected or to be collected, which affect the category of taxpayers which it represents, more particularly concerning the establishment of taxes, the rate and method of collection of these taxes, and reforms in them. The delegations may also be consulted on any other questions of a financial or economic character.

### Decree concerning the Superior Council of the Government of Algeria<sup>2</sup>

*23 August 1898*

.....

### Law Providing for a Special Budget for Algeria<sup>3</sup>

*19 December 1900*

1. Algeria has civil personality. It may possess property, create establishments of colonial interest, grant concessions for railways and other major public works, and contract loans. The Governor-General represents Algeria for all civil law purposes. He may not contract loans nor grant concessions for railways or other major public works except on the basis of favourable discussions by the Financial Delegations and the Superior Council approved by a law. A decree enacted in the form of regulations made by public authority may approve such discussions and authorise public works in the case of canal and branch railways, less than 20 km. long, of filling in gaps in and rectifying the course of national roads, of bridges and of other works of minor importance.

<sup>1</sup> English translation from French text in *Revue algérienne et tunisienne de législation et de jurisprudence*, Vol. XV, 1899, pp. 165-168.

<sup>2</sup> *Ibid.*, pp. 168-170.

<sup>3</sup> English translation from French text in *idem*, Vol. XVII, 1901, pp. 138-165.

## BELGIAN CONGO

### Act respecting the Government of the Belgian Congo<sup>1</sup>

18 October 1908

#### CHAPTER I. LEGAL STATUS OF THE BELGIAN CONGO

1. The Belgian Congo shall have a status distinct from that of the mother country. It shall be governed by special laws. The assets and liabilities of Belgium and of the Colony shall be kept separate. Consequently, the interest on the Congo Government Bonds shall be paid exclusively by the Colony, except as may be provided to the contrary by law.

#### CHAPTER II. RIGHTS OF BELGIAN CITIZENS, ALIENS AND NATIVES

2. All inhabitants of the Colony shall enjoy the rights conferred by articles 7 (first and second paragraphs), 8-15, 16 (first paragraph), 17 (first paragraph), 21, 22 and 24 of the Belgian Constitution.

The words "the law", occurring in articles 7 (second paragraph), 8, 9, 10, 11, 17 (first paragraph) and 22 of the Belgian Constitution, shall be replaced, in so far as concerns the Colony, by the words "the special Acts or Decrees".

No measure shall be taken as regards the press except in conformity with the Acts and Decrees governing the press.

No one may be compelled to work on account of or for the benefit of private individuals or associations.

Laws shall be enacted shortly to regulate the rights and individual liberties of natives.

5. The Governor General shall endeavour to ensure the preservation of the native populations and the improvement of their moral and material conditions of existence. He shall promote the expansion of individual liberty, the gradual abolition of polygamy, and the development of property. He shall protect and promote, without distinction of nationality or religion, all religious, scientific or charitable institutions or undertakings formed or organised for these purposes or which provide instruction for the Natives and tend to inculcate in the Natives an understanding of and appreciation for the advantages of civilisation.

Scholars, explorers and Christian missionaries, and their escorts, possessions and collections, shall enjoy special protection.

### Order respecting the Administrative Organisation of the Belgian Congo<sup>2</sup>

29 June 1933, as Amended June 1934

41. The administrative territories shall be administered by a territorial administrative officer, who shall have under his orders an assistant territorial adminis-

<sup>1</sup> English translation from French text in DARESTE: *Les constitutions modernes*, 3rd edition, Vol. I, 1910, pp. 98-99.

<sup>2</sup> English translation from *British and Foreign State Papers*, Vol. 136, 1933, pp. 1-6; for French text, see *Bulletin officiel du Congo belge*, part I, 15 July 1933, and part I, 15 July 1934.

trative officer and one or more territorial agents. The administrative officers shall be subject to the authority of the district commissioners.

They shall keep in constant touch with the native chiefs; they shall endeavour to maintain or enhance their authority and prestige and to conserve and develop native institutions. They shall facilitate by all means in their power relations between Europeans and Natives.

For this purpose they shall establish and maintain means of communication in their territories in such a manner as to facilitate relations between the Government and the population, the penetration of civilisation and trade, and the progressive development of their respective territories.

## Ruanda Urundi

### Belgian Mandate for East Africa<sup>1</sup>

20 July 1922

3. The Mandatory shall be responsible for the peace, order and good government of the territory, and shall undertake to promote to the utmost the material and moral well-being and the social progress of its inhabitants.

4. The Mandatory shall not establish any military or naval bases, nor erect any fortifications, nor organise any native military force in the territory except for local police purposes and for the defence of the territory.

5. The Mandatory:

- (1) Shall provide for the eventual emancipation of all slaves, and for as speedy an elimination of domestic and other slavery as social conditions will allow;
- (2) Shall suppress all forms of slave trade;
- (3) Shall prohibit all forms of forced or compulsory labour, except for public works and essential services, and then only in return for adequate remuneration;
- (4) Shall protect the Native from measures of fraud and force by the careful supervision of labour contracts and the recruiting of labour;
- (5) Shall exercise a strict control over the traffic in arms and ammunition and the sale of spirituous liquors.

6. In the framing of laws relating to the holding or transfer of land, the Mandatory shall take into consideration native laws and customs, and shall respect the rights and safeguard the interests of the native population.

No native land may be transferred, except between Natives, without the previous consent of the public authorities. No real rights over native land in favour of non-Natives may be created except with the same consent.

The Mandatory will promulgate strict regulations against usury.

7. The Mandatory shall secure to all nationals of States Members of the League of Nations the same rights as are enjoyed by his own nationals in respect of entry into and residence in the territory, the protection afforded to their person and property, the acquisition of property, movable and immovable, and the exercise of their profession or trade, subject only to the requirements of public order, and on condition of compliance with the local law.

Further, the Mandatory shall ensure to all nationals of States Members of the League of Nations, on the same footing as to his own nationals, freedom of

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<sup>1</sup> Text from HUDSON: *International Legislation*, Vol. I, 1919-1921, pp. 92-99.

transit and navigation, and complete economic, commercial and industrial equality; provided that the Mandatory shall be free to organise public works and essential services on such terms and conditions as he thinks just.

Concessions for the development of the natural resources of the territory shall be granted by the Mandatory without distinction on grounds of nationality between the nationals of all States Members of the League of Nations, but on such conditions as will maintain intact the authority of the local Government.

Concessions having the character of a general monopoly shall not be granted. This provision does not affect the right of the Mandatory to create monopolies of a purely fiscal character in the interest of the territory under Mandate, and in order to provide the territory with fiscal resources which seem best suited to the local requirements; or, in certain cases, to carry out the development of natural resources, either directly by the State or by a controlled agency, provided that there shall result therefrom no monopoly of the natural resources for the benefit of the Mandatory or his nationals, directly or indirectly, nor any preferential advantage which shall be inconsistent with the economic, commercial and industrial equality hereinbefore guaranteed.

The rights conferred by this article extend equally to companies and associations organised in accordance with the law of any of the Members of the League of Nations, subject only to the requirements of public order, and on condition of compliance with the local law.

8. The Mandatory shall ensure in the territory complete freedom of conscience and the free exercise of all forms of worship which are consonant with public order and morality; missionaries who are nationals of States Members of the League of Nations shall be free to enter the territory and to travel and reside therein, to acquire and possess property, to erect religious buildings and to open schools throughout the territory; it being understood, however, that the Mandatory shall have the right to exercise such control as may be necessary for the maintenance of public order and good government, and to take all measures required for such control.

9. The Mandatory shall apply to the territory any general international conventions applicable to contiguous territories.

10. The Mandatory shall have full powers of administration and legislation in the area subject to the Mandate: this area shall be administered in accordance with the laws of the Mandatory as an integral part of his territory and subject to the preceding provisions.

The Mandatory shall therefore be at liberty to apply his laws to the territory under the Mandate subject to the modifications required by local conditions, and to constitute the territory into a customs, fiscal or administrative union or federation with the adjacent possessions under his own sovereignty or control; provided always that the measures adopted to that end do not infringe the provisions of this Mandate.

11. The Mandatory shall make to the Council of the League of Nations an annual report to the satisfaction of the Council. This report shall contain full information concerning the measures taken to apply the provisions of the present Mandate.

Law respecting the Government of Ruanda Urundi<sup>1</sup>

21 August 1925

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<sup>1</sup> French text in *British and Foreign State Papers*, Vol. 125, 1926, part 3, pp. 207-208.

## BRITISH COLONIES AND MANDATED TERRITORIES

### BRITISH EAST AFRICA

#### Kenya

Letters Patent Constituting the Office of Governor and  
Commander-in-Chief of the Colony of Kenya and  
Providing for the Government thereof<sup>1</sup>

*11 September 1920*

XVI. *Substantially identical with Cyprus Letters Patent, paragraph 16, p. 43.*

Royal Instructions to the Governor and Commander-in-Chief<sup>2</sup>

*29 March 1934, Amended 1935 and 1939*

15. The Legislative Council of the Colony shall consist of the Governor as president, eleven *ex officio* members, nominated official members not exceeding nine in number, eleven European elected members, Indian elected members not exceeding five in number, one Arab elected member, and two nominated unofficial members to represent the interests of the African community: . . .

16. The *ex officio* members of the Legislative Council shall be the persons for the time being lawfully discharging the functions of Chief Secretary, of Attorney-General, of Financial Secretary, of Chief Native Commissioner, of Director of Medical Services, of Director of Agriculture, of Director of Education, of General Manager of the Kenya and Uganda Railways and Harbours, of Director of Public Works, of Commissioner of Customs and of Commissioner of Lands and Settlement.

34. *Substantially identical with Bermuda Royal Instructions, paragraph 24, p. 290.*

35. *Substantially identical with British Guiana Royal Instructions, paragraph 14, p. 292.*

40. The Governor is, to the utmost of his power, to promote religion and education among the native inhabitants of the Colony, and he is especially to take care to protect them in their persons and in the free enjoyment of their possessions and by all lawful means to prevent and restrain all violence and injustice which may in any manner be practised or attempted against them.

42. *Substantially identical with Bahamas Royal Instructions, paragraph 30, p. 290.*

<sup>1</sup> Text and amendment in *Statutory Rules and Orders*, Vol. II, 1920, p. 1612 and Vol. II, 1934, p. 767.

<sup>2</sup> Extracts from text in *Constitutions of All Countries*, Vol. I, pp. 487-488.

## Order in Council Providing for the Establishment of Courts in the Colony<sup>1</sup>

27 June 1921

2. (1) All rights of His Majesty in or in relation to any Crown lands shall vest in and may be exercised by the Governor for the time being in trust for His Majesty.

(2) The Governor may make grants or leases of any Crown lands or may permit them to be temporarily occupied on such terms and conditions as he may think fit, subject to the provisions of any ordinance.

(3) "Crown lands" shall mean all public lands in the Colony which are for the time being subject to the control of His Majesty, and all lands which shall have been acquired by His Majesty for the public service or otherwise howsoever and shall include all lands occupied by the native tribes of the Colony and all lands reserved for the use of the members of any tribe.

7. In all cases civil and criminal to which Natives are parties, every court (a) shall be guided by Native law so far as it is applicable and is not repugnant to justice and morality or inconsistent with any Order in Council or Ordinance, or any regulation or rule made under any Order in Council or Ordinance; and (b) shall decide all such cases according to substantial justice without undue regard to technicalities or procedure and without undue delay.

## Kenya Protectorate Order in Council 1920<sup>2</sup>

13 August 1920

XV. *Substantially identical with Cyprus Letters Patent, paragraph 16, p. 43.*

## Northern Rhodesia

### Northern Rhodesia Order in Council, 1924<sup>3</sup>

14. *Substantially identical with Cyprus Letters Patent, paragraph 16, p. 43.*

22. All ordinances to be passed by the Legislative Council shall respect any Native laws or customs by which the civil relations of any Native Chiefs, tribes or populations under His Majesty's protection are now regulated, except so far as the same may be incompatible with the due exercise of His Majesty's power and jurisdiction.

25. Unless he shall have previously obtained His Majesty's instructions upon such bill through a Secretary of State, or unless such bill shall contain a clause suspending the operation thereof until the signification in the Territory of His Majesty's pleasure thereupon, the Governor shall reserve:

<sup>1</sup> Text in *Statutory Rules and Orders*, 1921, p. 475; or *Laws of Kenya, Orders in Council, Letters Patent and Royal Instructions*, 1 Sept. 1927, pp. 17-21; extract from text in *Constitutions of All Countries*, Vol. I, p. 490.

<sup>2</sup> Text in *British and Foreign State Papers*, Vol. 113, p. 174, with amendment in *Statutory Rules and Orders*, Vol. I, 1934, p. 650; text is also available in *Laws of Kenya, Orders in Council, Letters Patent and Royal Instructions*, 1 Sept. 1927, pp. 61-67.

<sup>3</sup> Text in *British and Foreign State Papers*, Vol. 119, p. 41, with amendments in Vols. 123, p. 145, 126, p. 130, 128, p. 130 and 134, p. 78.

(1) Any bill, save in respect of the supply of arms, ammunition, or liquor to Natives, whereby Natives may be subjected or made liable to any conditions, disabilities or restrictions to which persons of European descent are not also subjected or made liable.

(2) Any bill altering or amending the arrangements relating to the collection and allocation of mining revenues in force at the commencement of this Order under any existing Law of the Territory or otherwise, or any bill imposing any special rate, tax or duty on minerals in or under the land within the Territory.

(4) Any bill authorising the construction of new railways.

27. (1) There shall be a Court of Record, styled the High Court of Northern Rhodesia, with full jurisdiction, civil and criminal, over all persons and over all matters within Northern Rhodesia, subject to the provisions hereinafter contained with regard to Native law and custom.

36. In civil cases between Natives every court shall:

- (a) Be guided by Native law so far as it is applicable and is not repugnant to natural justice or morality or inconsistent with any Order in Council, Ordinance or Proclamation or any Regulation or Rule made under any Order in Council, Ordinance or Proclamation, and shall:
- (b) Decide all such cases according to substantial justice without undue regard to technicalities of procedure and without delay. In all other respects the Court shall follow as far as possible the procedure observed in similar cases in England.<sup>1</sup>

37. If in any civil case between Natives a question arises as to the effect of a marriage contracted, according to Native law or custom, by a Native in the lifetime of one or more other wives married to him according to Native law or custom, the Court may treat such marriage as valid for all civil purposes in so far as polygamous marriages are recognised by the said Native law or custom.

40. No conditions, disabilities, or restrictions which do not equally apply to persons of European descent shall, without the previous consent of a Secretary of State, be imposed upon Natives (save in respect of the supply of arms, ammunition and liquor), by any Proclamation, Regulation or other instrument issued under the provisions of any Law, unless such conditions, disabilities, or restrictions shall have been explicitly prescribed, defined and limited in such law.

41. (1) It shall not be lawful for any purpose whatever to alienate from the Chief and people of the Barotse, the territory reserved from prospecting by virtue of the concessions from Lewanika to the British South Africa Company dated the 17th day of October, 1900, and the 11th day of August, 1909.

(2) All rights reserved to or for the benefit of Natives by the aforesaid concessions as approved by the Secretary of State shall continue to have full force and effect.

42. A Native may acquire, hold, encumber, and dispose of land on the same conditions as a person who is not a Native, but no contract for encumbering or alienating land the property of a Native, shall be valid unless the contract is made in the presence of a magistrate, is attested by him, and bears a certificate signed by him stating that the consideration for the contract is fair and reasonable, and that he has satisfied himself that the Native understands the transaction.

43. (1) No Native shall be removed from any kraal, or from any land assigned to him for occupation, except after full enquiry by, and by order of, the Governor.

Provided that in case of any removal of a Native from a Native Reserve into land not forming part of a Native Reserve otherwise than in execution of the process of a competent court the approval of the Secretary of State shall be first had and obtained.

<sup>1</sup> As substituted by article 4 of the Northern Rhodesia (Amendment) Order in Council, 1928.



(2) If any person without such order removes or attempts to remove any Native from any kraal or from any land unless in execution of the process of a competent court, he shall, in addition to any other proceeding to which he is liable, be guilty of an offence against this Order, and on conviction before the High Court shall be liable to imprisonment with or without hard labour for any period not exceeding two years, or to a fine not exceeding £100 or to both.

(3) Nothing in this section contained shall be deemed to limit or affect the exercise by the Chief of the Barotse of his authority in tribal matters, or to prohibit the removal of Natives from any kraal or land assigned to them when such removal is authorised by any law for the time being in force relating to public health, provided that other suitable land be forthwith assigned to them in lieu of that from which they have been removed.<sup>1</sup>

44. The Governor may refer any question relating to Natives for report to any Judge of the High Court, and the Judge shall thereupon make such enquiry as he thinks fit, and shall report to the Governor the result of such enquiry.

45. In case of a revolt against the Government, or other misconduct committed by a Native chief or tribe, the Governor may, with the approval of a Secretary of State, impose a reasonable fine upon the offender.

46. No new railway shall be constructed in the Territory save under the provisions of any Order of His Majesty in Council or of any Ordinance giving special authority in that behalf.

### Order in Council Providing for the Constitution of the Legislative Council<sup>2</sup>

*20 February 1924, as Amended to 1937*

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### Royal Instructions to the Governor and Commander-in-Chief

*26 February 1924*

16. *Substantially identical with Bermuda Royal Instructions, paragraph 24, p. 290.*

17. *Substantially identical with British Guiana Royal Instructions, paragraph 14, p. 292.*

23. *Substantially identical with Kenya Royal Instructions, paragraph 40, p. 642.*

25. *Substantially identical with Bahamas Royal Instructions, paragraph 30, p. 290.*

<sup>1</sup> As amended by article 9 of the Northern Rhodesia (Crown Lands and Native Reserves) Order in Council, 1928.

<sup>2</sup> Text in *British and Foreign State Papers*, Vol. 119, p. 36, with amendments in *ibid.*, Vol. 130, p. 39, and *Statutory Rules and Orders*, 1937, p. 811.

## Nyasaland

### British Central Africa Order in Council, 1902<sup>1</sup>

*11 August 1902, as Amended 1907 and 1912*

7. (1) All rights of His Majesty in or in relation to any Crown lands shall vest in and may be exercised by the Governor for the time being in trust for His Majesty, or if the Secretary of State at any time with respect to all or any such lands by order under his hand so directs, in such other trustee or trustees for His Majesty as the Secretary of State may appoint.

(2) The Secretary of State may, when he thinks fit, by a like order remove any trustee so appointed, and may appoint any new or additional trustee or trustees.

(3) The Governor, or such other trustee or trustees, may make grants or leases of any Crown lands, or may permit them to be temporarily occupied, on such terms and conditions as he or they may think fit, subject to the provisions of any ordinance.

(4) All mines and minerals being in, under, or upon any lands in the occupation of any native tribe, or any members thereof, or of any person not possessed of the right to work such mines and minerals shall vest in the Governor, or such trustee or trustees, in like manner as the mines and minerals being in, under, or upon any Crown lands.

12. (1) The Governor may make ordinances for the administration of justice, the raising of revenue, and generally for the peace, order and good government of all persons in British Central Africa.

(3) In making ordinances, the Governor shall respect existing Native laws and customs except so far as the same may be opposed to justice or morality.

20. *Substantially identical with Kenya Order in Council, paragraph 7, p. 643.*

### Nyasaland Order in Council, 1907<sup>2</sup>

XIII. *Substantially identical with Cyprus Letters Patent, paragraph 16, p. 43.*

### Royal Instructions to the Governor and Commander-in-Chief<sup>3</sup>

*9 August 1907*

27. *Substantially identical with Bahamas Royal Instructions, paragraph 21, p. 289.*

28. No private ordinance shall be passed whereby the property of any private person may be affected in which there is not a saving of the rights of Us, Our heirs and successors, and of all bodies, politic and corporate, and of all other persons except such as are mentioned in the said ordinance, and these claiming by, from, and under them. The Governor shall not assent in Our name to any private ordinance until proof be made before him that adequate and timely notification, by public advertisement or otherwise was made of the parties' intention

<sup>1</sup> Text in *British and Foreign State Papers*, Vol. 95, p. 646, with amendments in Vols. 100, p. 94, 100, p. 125 and 105, p. 128.

<sup>2</sup> Text in *idem*, Vol. 100, p. 94, with amendment in Vol. 123, p. 150.

<sup>3</sup> Text in *Orders of the King in Council relating to the Nyasaland Protectorate in Force on 31 December 1913*, by Charles J. GRIFFIN, 1914, Government Printer, Zomba, p. 32.

to apply for such ordinance before the same was brought before the Legislative Council; and a certificate under his hand shall be transmitted with and annexed to every private ordinance, signifying that such notification has been given and declaring the manner of giving the same.

34. *Substantially identical with Kenya Royal Instructions, paragraph 40, p. 642.*

36. *Substantially identical with Bahamas Royal Instructions, paragraph 30, p. 290.*

## Somaliland

### Order in Council Providing for the Administration of the Protectorate<sup>1</sup>

*17 December 1929, as Amended 1930, 1932 and 1935*

#### PART I. PRELIMINARY

3. In this Order:

(vi) "Native" means an indigenous inhabitant of Africa or Arabia.

(x) "Treaty" includes any convention, agreement or arrangement with any State or Government, King, Chief, people, or tribe, made by or on behalf of His Majesty, or to the benefits of which His Majesty has succeeded.

(xviii) "Crown lands" means all public lands in the Protectorate which are subject to the control of His Majesty by virtue of any treaty, convention or agreement, or of His Majesty's Protectorate, and all lands which shall have been acquired by His Majesty for the public service or otherwise howsoever.

5. The powers conferred by this Order shall extend to the persons and matters following in so far as by treaty, grant, usage, sufferance or other lawful means His Majesty has jurisdiction in relation to such persons and matters, that is to say: (a) British subjects; (b) foreigners; (c) the property and all personal or proprietary rights and liabilities in the Protectorate of British subjects and foreigners, including ships with their boats, and the persons and property on board thereof, or belonging thereto; and (d) Natives, in the cases and according to the conditions specified in this Order, and not otherwise.

Provided that jurisdiction over any foreign ships under this article shall not be exercised otherwise than according to the practice of the High Court in England in the exercise of jurisdiction over foreign ships.

6. All His Majesty's jurisdiction exercisable in the Protectorate, for the hearing and determination of suits, or for the maintenance of order, or for the control or administration of persons or property, or in relation thereto, shall be exercised under and according to the provisions of this Order, so far as such jurisdiction relates to British subjects and foreigners. Jurisdiction over Natives shall be exercised only in such matters and to such extent as the Court in its discretion thinks fit.

#### PART II. ADMINISTRATION

10. *Substantially identical with British Central Africa Order in Council, paragraph 7, p. 646.*

12. *Substantially identical with Kenya Order in Council, paragraph 7, p. 643.*

<sup>1</sup> Text in *British and Foreign State Papers*, Vol. 132, 1930, part I, pp. 22-39; extract from text in *Constitutions of All Countries*, Vol. I, p. 580.

## PART III. LEGISLATION

15. (i) The Governor may make ordinances for the administration of justice, the raising of revenue, and generally for the peace, order and good government of all persons in the Protectorate. In the making of any ordinances the Governor shall conform to and observe all rules, regulations and directions in that behalf contained in any Instructions under His Majesty's Sign Manual and Signet.

(iii) In making ordinances the Governor shall respect existing Native laws and customs except so far as the same may be opposed to justice or morality.

(x) Every ordinance shall, unless a contrary intention appears, extend to Natives, and may, in relation to Natives, comprise such special provisions, modifications and penalties as the Governor may think fit.

## Royal Instructions to the Commissioner and Commander-in-Chief

2 May 1932

5. *Substantially identical with Kenya Royal Instructions, paragraph 34, p. 642.*

9. *Substantially identical with Kenya Royal Instructions, paragraph 40, p. 642.*

11. *Substantially identical with Bahamas Royal Instructions, paragraph 30, p. 290.*

## Tanganyika

Mandate for Tanganyika<sup>1</sup>

20 July 1922

3. The Mandatory shall be responsible for the peace, order and good government of the territory, and shall undertake to promote to the utmost the material and moral well-being and the social progress of its inhabitants. The Mandatory shall have full powers of legislation and administration.

4-8. *Substantially identical with articles 4-8 of the Belgian Mandate for East Africa, pp. 640-641.*

9. The Mandatory shall apply to the territory any general international conventions already existing, or which may be concluded hereafter, with the approval of the League of Nations, respecting the slave trade, the traffic in arms and ammunition, the liquor traffic, and the traffic in drugs, or relating to commercial equality, freedom of transit and navigation, aerial navigation, railways, postal, telegraphic, and wireless communication, and industrial, literary and artistic property.

The Mandatory shall co-operate in the execution of any common policy adopted by the League of Nations for preventing and combating disease, including diseases of plants and animals.

10. The Mandatory shall be authorised to constitute the territory into a customs, fiscal and administrative union or federation with the adjacent territories under his own sovereignty or control; provided always that the measures adopted to that end do not infringe the provisions of this Mandate.

<sup>1</sup> Text in HUDSON: *International Legislation*, Vol. I, 1919-1921, pp. 84-92.

11. The Mandatory shall make to the Council of the League of Nations an annual report to the satisfaction of the Council, containing full information concerning the measures taken to apply the provisions of this Mandate.

A copy of all laws and regulations made in the course of the year and affecting property, commerce, navigation or the moral and material well-being of the natives shall be annexed to this report.

### Tanganyika Order in Council, 1920<sup>1</sup>

*22 July 1920*

8. (1) - (4) *Substantially identical with British Central Africa Order in Council, paragraph 7, p. 646.*

(5) *Substantially identical with Cyprus Letters Patent, paragraph 16, p. 43.*

13. (1) The Governor may make ordinances for the administration of justice, the raising of revenue, and generally for the peace, order and good government of all persons in the territory.

(4) In making ordinances the Governor shall respect existing Native laws and customs, except so far as the same may be opposed to justice or morality.

24. *Substantially identical with Kenya Order in Council, paragraph 7, p. 643.*

### Legislative Council Order in Council, 1926<sup>2</sup>

*19 March 1926*

XIX. In making ordinances the Governor and Council shall respect existing Native laws and customs except so far as the same may be opposed to justice and morality.

### Royal Instructions to the Governor and Commander-in-Chief

*31 August 1920, as Amended 25 August 1926 and 3 November 1937*

3. The Governor shall not (except in the cases hereunder mentioned) assent in Our name to any bill of the following classes, namely:

(1) - (9) *Substantially identical with the corresponding clauses of paragraph 24 of the Bermuda Royal Instructions, p. 290.*

(10) Any bill containing provisions which are repugnant to any Order in Council in force in the territory or which have been disallowed by one of Our Principal Secretaries of State.

Unless (substantially identical with the corresponding provision of paragraph 24 of Bermuda Royal Instructions, p. 290.

4. *Substantially identical with British Guiana Royal Instructions, paragraph 14, p. 292.*

24. The Governor shall punctually forward to Us from year to year, through one of Our Principal Secretaries of State, the annual book of returns or reports,

<sup>1</sup>Text in *British and Foreign State Papers*, Vol. 113, p. 97, with amendment in Vol. 123, p. 147.

<sup>2</sup>Text in *idem*, Vol. 123, p. 135, with amendments in *Statutory Rules and Orders*, 1935, p. 483 and 1937, p. 818.

commonly called the Blue Book, relating to the Revenue and Expenditure, Defence, Public Works, Legislation, Civil Establishments, Pensions, Population, Schools, Course of Exchange, Imports and Exports, Agricultural Produce, Manufactures, the welfare of the native population, and other matter in the said Blue Book more particularly specified, with reference to the state and condition of the territory, and having regard to the obligations of Our Government as the Mandatory of the territory in accord with article XXII of the Covenant of the League of Nations.

## Uganda

### Uganda Order in Council, 1902<sup>1</sup>

*11 August 1902, as Amended 1911, 1912 and 1920*

7. *Substantially identical with British Central Africa Order in Council, paragraph 7, p. 646.*

20. *Substantially identical with Kenya Order in Council, paragraph 7, p. 643.*

### Uganda Order in Council, 1920<sup>2</sup>

14. *Substantially identical with Cyprus Letters Patent, paragraph 16, p. 43.*

### Royal Instructions to the Governor and Commander-in-Chief<sup>3</sup>

*5 June 1920*

30. *Substantially identical with Bermuda Royal Instructions, paragraph 24, p. 290.*

31. *Substantially identical with British Guiana Royal Instructions, paragraph 14, p. 292.*

37. *Substantially identical with Kenya Royal Instructions, paragraph 40, p. 642.*

39. *Substantially identical with Bahamas Royal Instructions, paragraph 30, p. 290.*

## Buganda

### The Uganda Agreement<sup>4</sup>

*10 March 1900*

5. The laws made for the general governance of the Uganda Protectorate by Her Majesty's Government will be equally applicable to the Kingdom of Uganda,

<sup>1</sup>Text in *British and Foreign State Papers*, Vol. 95, p. 636, with amendments in Vols. 105, p. 130, 106, p. 806 and 123, p. 105; also in *Laws of the Uganda Protectorate*, revised edition, Vol. II, 1923, pp. 1111-1117.

<sup>2</sup>Text in *British and Foreign State Papers*, Vol. 123, p. 105, with amendment on p. 148; also in *Laws of the Uganda Protectorate*, revised edition, Vol. II, 1923, pp. 1210-1215.

<sup>3</sup>Text in *Laws of the Uganda Protectorate*, revised edition, Vol. II, 1923, pp. 1249-1258.

<sup>4</sup>*Idem*, Vol. III, pp. 448-460.

except in so far as they may in any particular conflict with the terms of this Agreement, in which case the terms of this Agreement will constitute a special exception in regard to the Kingdom of Uganda.

11. The Lukiko, or Native Council, shall be constituted as follows:

In addition to the three Native ministers, who shall be *ex officio* senior members of the Council, each chief of a county (twenty in all) shall be *ex officio* a member of the Council.

The Lukiko shall not decide any questions affecting the persons or property of Europeans or others who are not Natives of Uganda. No person may be elected to the Lukiko who is not a Native of the Kingdom of Uganda. No question of religious opinion shall be taken into consideration in regard to the appointment by the Kabaka of members of the Council. In this matter he shall use his judgment and abide by the advice of Her Majesty's representative, assuring in this manner a fair proportionate representation of all recognised expressions of religious belief prevailing in Uganda.

12. In order to contribute to a reasonable extent towards the general cost of the maintenance of the Uganda Protectorate, there shall be established the following taxation for Imperial purposes, that is to say, the proceeds of the collection of these taxes shall be handed over intact to Her Majesty's representative in Uganda as the contribution of the Uganda Province towards the general revenue of the Protectorate.

The taxes agreed upon at present shall be the following:

- (a) A hut tax of three rupees, or 4s. per annum, on any house, hut, or habitation, used as a dwelling place.
- (b) A gun tax of three rupees, or 4s. per annum, to be paid by any person who possesses or uses a gun, rifle, or pistol.

..... The representative of Her Majesty's Government in the Uganda Protectorate may from time to time direct that in the absence of current coin, a hut or gun tax may be paid in produce or in labour according to a scale which shall be laid down by the said representative . . .

14. All main public roads traversing the Kingdom of Uganda, and all roads the making of which shall at any time be decreed by the Native Council with the assent of Her Majesty's representative, shall be maintained in good repair by the chief of the Saza (or county) through which the roads run. The chief of a county shall have the right to call upon each Native town, village, or commune, to furnish labourers in the proportion of one to every three huts or houses, to assist in keeping the established roads in repair, provided that no labourers shall be called upon to work on the roads for more than one month in each year. Europeans and all foreigners whose lands abut on established main roads, will be assessed by the Uganda Administration and required to furnish either labour or to pay a labour rate in money as their contribution towards the maintenance of the highways. When circumstances permit, the Uganda Administration may further make grants from out of its Public Works Department for the construction of new roads or any special repairs to existing highways, of an unusually expensive character.

15. The land of the Kingdom of Uganda shall be dealt with in the following manner: . . .

Her Majesty's Government, however, reserves to itself the right to carry through or construct roads, railways, canals, telegraphs, or other useful public works, or to build military forts or works of defence on any property, public or private, with the condition that not more than 10 per cent. of the property in question shall be taken up for these purposes without compensation, and that compensation shall be given for the disturbance of growing crops or of buildings.

16. Until Her Majesty's Government has seen fit to devise and promulgate forestry regulations, it is not possible in this agreement to define such forestry

rights as may be given to the Natives of Uganda; but it is agreed on behalf of Her Majesty's Government, that in arranging these forestry regulations, the claim of the Buganda people to obtain timber for building purposes, firewood, and other products of the forests of uncultivated lands, shall be taken into account, and arrangements made by which under due safeguards against abuse these rights be exercised gratis.

17. As regards mineral rights: the rights to all minerals found on private estates shall be considered to belong only to the owners of those estates, subject to a 10 per cent. *ad valorem* duty, which will be paid to the Uganda Administration when the minerals are worked. On the land outside private estates, the mineral rights shall belong to the Uganda Administration, which, however, in return for using or disposing of the same must compensate the occupier of the soil for the disturbance of growing crops or buildings, and will be held liable to allot to him from out of the spare lands in the Protectorate an equal area of soil to that from which he has been removed. On these waste and uncultivated lands of the Protectorate, the mineral rights shall be vested in Her Majesty's Government as represented by the Uganda Administration. In like manner the ownership of the forests, which are not included within the limits of private properties, shall be henceforth vested in Her Majesty's Government.

### The Buganda Agreement (Native Laws), 1910<sup>1</sup>

1. The Kabaka and Lukiko with the consent of the Governor have had and shall have power to make laws governing the Baganda in Buganda. . .

2. The Lukiko may forward to the Kabaka proposed laws which may be agreed upon by a majority of the Lukiko.

3. The Kabaka shall consult with the Governor before giving effect to such proposed laws, and shall, in this matter, explicitly follow the advice of the Governor.<sup>2</sup>

### Zanzibar

#### Decree of the Sultan Providing for the Administration of Justice and the Constitution of Courts<sup>3</sup>

*29 July 1923, as Amended to 1934*

.....

#### Order in Council Providing for the Exercise of His Majesty's Jurisdiction<sup>4</sup>

*8 September 1924, as Amended to 1936*

.....

<sup>1</sup> Text in *Laws of the Uganda Protectorate*, revised edition, Vol. III, 1923, pp. 469-470.

<sup>2</sup> For further Buganda Agreements and the Buganda Laws see *ibid.*, pp. 448-509. For the Toro and Ankole Agreements see *ibid.*, pp. 510-527.

<sup>3</sup> Text as amended in revised edition of the *Zanzibar Laws*, 1934, chapter 3.

<sup>4</sup> Text in *British and Foreign State Papers*, Vol. 119, p. 225, with amendments in Vols. 121, p. 246 and 123, p. 125, and in *Statutory Rules and Orders*, Vol. I, 1936, p. 947.



Decree of the Sultan Providing for the Establishment of  
Executive and Legislative Councils<sup>1</sup>

*15 January 1925, as Amended to 1936*

.....

Despatch by the Secretary of State for the Colonies to the  
British Resident at Zanzibar

*20 April 1928*

Sir,

With reference to clause 42 (2) of the Zanzibar Order in Council, 1724, I have the honour to convey to you the following general instructions with regard to the submission to the Secretary of State, prior to counter signature by the British Resident, of decrees issued or proposed to be issued by the Sultan of Zanzibar in the exercise of his authority over his dominions.

2. The British Resident shall not (except in the cases hereunder mentioned) countersign any decree of the following classes, namely:

*The remainder of the paragraph is substantially identical with Bermuda Royal Instructions, paragraph 24, p. 290.*

BRITISH HIGH COMMISSION TERRITORIES

Order in Council Transferring to His Majesty's High Commissioner for Basutoland, Bechuanaland Protectorate and Swaziland the Powers Vested in His Majesty's High Commissioner for South Africa<sup>2</sup>

*20 December 1934*

.....

**Basutoland**

Order in Council Providing for the Administration<sup>3</sup>

*2 February 1884*

.....

<sup>1</sup> Text in *British and Foreign State Papers*, Vol. 123, p. 697; text as amended in revised edition of the *Zanzibar Laws*, 1934, chapter 28, with further amendments in *Laws of Zanzibar*, 1935-1936, supplement, p. 9.

<sup>2</sup> Text in *Statutory Rules and Orders*, Vol. II, 1934, p. 758.

<sup>3</sup> Text in *British and Foreign State Papers*, Vol. 75, p. 424.

## Bechuanaland

### Order in Council Providing for the Exercise of Jurisdiction<sup>1</sup>

*9 May 1891, as Amended 1891 and 1909*

4. In the exercise of the powers and authorities hereby conferred upon him, the High Commissioner may, amongst other things, from time to time by proclamation provide for the administration of justice, the raising of revenue, and generally for the peace, order, and good government of all persons within the limits of this Order, including the prohibition and punishment of acts tending to disturb the public peace.

The High Commissioner in issuing such proclamations shall respect any Native laws or customs by which the civil relations of any Native Chiefs, tribes, or populations under Her Majesty's protection are now regulated, except so far as the same may be incompatible with the due exercise of Her Majesty's power and jurisdiction.

## Swaziland

### Order in Council Providing for the Exercise of Jurisdiction by the Governor of the Transvaal<sup>2</sup>

*25 June 1903, as Amended 1906 and 1909*

5. *Substantially identical with article 4 of the Bechuanaland Order in Council, above, but includes at the end of the second paragraph the words — "or clearly injurious to the welfare of the said natives".*

### Order in Council Transferring to His Majesty's High Commissioner for South Africa the Powers Vested in the Governor of the Transvaal<sup>3</sup>

*1 December 1906*

. . . . .

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<sup>1</sup>Text in *British and Foreign State Papers*, Vol. 83, p. 809, with amendments in *ibid.*, p. 812, and in *Statutory Rules and Orders*, 1909, p. 131.

<sup>2</sup>Text in *British and Foreign State Papers*, Vol. 96, p. 1126, with amendments in Vol. 99, p. 863, and in *Statutory Rules and Orders*, 1909, p. 334.

<sup>3</sup>Text in *British and Foreign State Papers*, Vol. 99, p. 863.

## BRITISH WEST AFRICA

**Gambia**

Letters Patent Constituting the Office of Governor and  
Commander-in-Chief of the Colony of the Gambia  
and Providing for the Government thereof<sup>1</sup>

27 February 1915

XIV. *Substantially identical with Cyprus Letters Patent, paragraph 16, p. 43.*

Royal Instructions to the Governor and Commander-in-Chief<sup>2</sup>

27 February 1915

31. *Substantially identical with Bermuda Royal Instructions, paragraph 24, p. 290.*

32. *Substantially identical with British Guiana Royal Instructions, paragraph 14, p. 292.*

36. *Substantially identical with Bahamas Royal Instructions, paragraph 27, p. 290.*

39. *Substantially identical with Kenya Royal Instructions, paragraph 40, p. 642.*

41. *Substantially identical with Bahamas Royal Instructions, paragraph 30, p. 290.*

Order in Council Providing for the Exercise of Jurisdiction in  
Territories Adjacent to the Colony<sup>3</sup>

23 November 1893

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<sup>1</sup> Text in *Statutory Rules and Orders*, Vol. III, 1915, p. 310, or in Sydney Spencer SAWREY-COOKSON: *A Revised Edition of the Ordinances of the Colony of the Gambia*, 1926, Waterlow, London, Vol. II.

<sup>2</sup> Text in Sydney Spencer SAWREY-COOKSON: *op. cit.*, Vol. II, 1926, pp. 677-688.

<sup>3</sup> Text in *British and Foreign State Papers*, Vol. 85, p. 125.

## Gold Coast<sup>1</sup>

### Legislative Council Order in Council, 1925<sup>2</sup>

8. The Unofficial Members of the Council shall consist of the following:

(3) Five European Unofficial Members, namely:

- (a) One representative of the firms which for the time being are members of a recognised Chamber of Commerce in the Colony; such representative to be styled "the Mercantile Member";
- (b) A representative of the mining industry in the Colony; such representative to be styled "the Mining Member"; and

.....

<sup>1</sup> The Constitution of the short-lived New Fanti Confederacy, which was adopted at Mankessim on 18 November 1871, is of some interest. For the full text see *British Parliamentary Papers*, Vol. XLIX, 1873, *Accounts and Papers*, Vol. II, p. 121, Return C. 171, Correspondence relative to the Fanti Confederation, pp. 3-8.

The following provisions of this Constitution deal with social and economic questions:

Whereas we, the undersigned kings and chiefs of Fanti, have taken into consideration the deplorable state of our peoples and subjects in the interior of the Gold Coast, and whereas we are of opinion that unity and concord among ourselves would conduce to our mutual well-being, and promote and advance the social and political condition of our peoples and subjects, who are in a state of degradation, without the means of education and of carrying on proper industry, we, the said kings and chiefs, after having duly discussed and considered the subject at meetings held at Mankessim on the 16th day of October last and following days, have unanimously resolved and agreed upon the articles hereinafter named.

2. That it be the object of the Confederation:

- (1) To promote friendly intercourse between all the kings and chiefs of Fanti, and to unite them for offensive and defensive purposes against their common enemy.
- (2) To direct the labours of the Confederation towards the improvement of the country at large.
- (3) To make good and substantial roads throughout all the interior districts included in the Confederation.
- (4) To erect school-houses and establish schools for the education of all children within the Confederation, and to obtain the service of efficient schoolmasters.
- (5) To promote agricultural and industrial pursuits, and to endeavour to introduce such new plants as may hereafter become sources of profitable commerce to the country.
- (6) To develop and facilitate the working of the mineral and other resources of the country.

21. That National Schools be established at as early a period as possible in the following districts: Braffoo Country, Abrah, Ayan, Gomowah, Eckunifi, Edgimacoe, Denhia, and Assin.

22. That normal schools be attached to each National School for the express purpose of educating and instructing the scholars as carpenters, masons, sawyers, joiners, agriculturists, smiths, architects, builders, etc.

23. That schools be also established, and school mistresses procured to train and teach the female sex, and to instruct them in the necessary requisites.

24. That the expense of erecting each school be defrayed from the national purse, but each king and chief be requested to render all possible aid, to facilitate the movement by supplying men and materials.

25. That in districts where there are Wesleyan schools at present established, the kings and chiefs be requested to insist on the daily attendance of all children between the ages of eight and fourteen.

26. That main roads be made, connecting various Provinces or districts with one another, and with the sea coast; that the roads be made after the following standard, *viz.* 15 feet broad, with good deep gutters on either side, and that the attention of the Confederation be first directed to the main road connecting Edgimacoe, Ayan, Ayanmain, and Mankessim, with the sea coast.

27. That the kings and principal chiefs be allowed a stipulated sum for the express purpose of maintaining the roads in proper order.

<sup>2</sup> Text in *British and Foreign State Papers*, Vol. 121, p. 208, with amendments in *ibid.*, Vol. 126, p. 27 and *Statutory Rules and Orders*, 1933, p. 2093 and *idem*, Vol. II, 1934, p. 762; text, as amended, in *Laws of the Gold Coast*, revised edition, Vol. IV, 1937, pp. 27-50.

10. No woman shall be disqualified by sex or marriage from exercising the political franchise under this Order, or from being elected, nominated, or appointed, to serve as a member of the Council.

16. (1) There shall be established in each Province of the Colony a Council which shall be called "The Provincial Council", and which shall consist of the Head Chiefs whose headquarters are situated within the Province; provided that for the purposes of this Order those Chiefs only shall be deemed to be Head Chiefs who, in the opinion of the Governor, are Chiefs not subordinate in their ordinary jurisdiction to any other Chief, and whom the Governor shall from time to time by an Instrument under his hand declare to be recognised Head Chiefs for the purposes of this Order.

.....

21. (1) For the purposes of the election of the Mercantile Member of the Council, those bodies only shall be deemed to be recognised Chambers of Commerce which the Governor shall from time to time by an Instrument under his hand declare to be recognised Chambers of Commerce for the said purposes.

22. (1) Subject as hereinafter in this clause provided, the Gold Coast Chamber of Mines shall have power to elect one of its members (being a European) to be the representative of the mining industry in the Colony to serve as the Mining Member of the Council; and for the purpose of such election the said Chamber may regulate its proceedings in such manner as it shall seem convenient and proper.

### Letters Patent Constituting the Office of Governor and Commander-in-Chief and Providing for the Government<sup>1</sup>

*23 May 1925, as Amended 23 November 1934*

14. *Substantially identical with Cyprus Letters Patent, paragraph 16, p. 43.*

### Royal Instructions to the Governor and Commander-in-Chief<sup>2</sup>

*23 May 1925*

16. *Substantially identical with Bermuda Royal Instructions, paragraph 24, p. 290.*

17. *Substantially identical with British Guiana Royal Instructions, paragraph 14, p. 292.*

20. *Substantially identical with Bahamas Royal Instructions, paragraph 27, p. 290.*

23. *Substantially identical with Kenya Royal Instructions, paragraph 40, p. 642.*

25. *Substantially identical with Bahamas Royal Instructions, paragraph 30, p. 290.*

### Native Administration (Colony) Ordinance<sup>3</sup>

*1 November 1927*

.....

<sup>1</sup> Text in *Statutory Rules and Orders*, 1925, p. 1760, with amendment in *idem*, Vol. II, 1934, p. 766; text, as amended, in *Laws of the Gold Coast*, revised edition, Vol. IV, 1937, pp. 10-16.

<sup>2</sup> Text in *Laws of the Gold Coast*, revised edition, Vol. IV, pp. 17-25.

<sup>3</sup> *Idem*, Vol. II, 1937, pp. 1155-1223.

### Ashanti

#### Ashanti Order in Council, 1934<sup>1</sup>

9 November 1934

7. In the exercise of the powers and authorities hereby conferred upon him, the Governor may, amongst other things, from time to time by ordinance provide for the administration of justice, the raising of revenue, and generally for the peace, order and good government of Ashanti, and of all persons therein, including the prohibition and punishment of acts tending to disturb the public peace.

The Governor, in issuing such ordinances, shall respect any Native laws by which the civil relations of any Native Chiefs, tribes or populations under His Majesty's protection are now regulated, except so far as the same may be incompatible with the due exercise of His Majesty's power and jurisdiction, or clearly injurious to the welfare of the said Natives.

#### Royal Instructions to the Governor and Commander-in-Chief of the Gold Coast Colony respecting the Administration of Ashanti<sup>2</sup>

23 November 1934

6. The Governor is not without Our permission to promulgate any ordinance within Ashanti of any of the classes hereinafter specified, that is to say.

(1)-(10) *Substantially identical with the corresponding clauses of Bermuda Royal Instructions, paragraph 24, p. 290.*

#### Native Authority (Ashanti) Ordinance<sup>3</sup>

31 January 1935

.....

#### Native Courts (Ashanti) Ordinance<sup>4</sup>

31 January 1935

.....

<sup>1</sup> Text in *Constitutions of All Countries*, Vol. I, p. 471, or *Laws of the Gold Coast*, revised edition, Vol. IV, 1937, pp. 69-74.

<sup>2</sup> Text in *Laws of the Gold Coast*, revised edition, 1937, Vol. IV, pp. 74-78.

<sup>3</sup> *Idem*, Vol. II, pp. 1239-1248.

<sup>4</sup> *Ibid.*, pp. 1249-1263.

**Northern Territories (Gold Coast)**Northern Territories Order in Council, 1934<sup>1</sup>

9 November 1934

7. *Substantially identical with Ashanti Order in Council, paragraph 7, p. 658.*

Royal Instructions to the Governor and Commander-in-Chief  
of the Gold Coast Colony respecting the Administration  
of the Northern Territories<sup>2</sup>

23 November 1934

6. *Substantially identical with Ashanti Royal Instructions, paragraph 6, p. 658.*

Native Authority (Northern Territories) Ordinance<sup>3</sup>

30 January 1932

.....

Native Courts (Northern Territories) Ordinance<sup>4</sup>

1 July 1935

.....

**Togoland**British Mandate for Togoland<sup>5</sup>

20 July 1922

2-10. *Substantially identical with articles 3-11 of the Belgian Mandate for East Africa, pp. 640-641.*

<sup>1</sup> Text in *Constitutions of All Countries*, Vol. I, p. 471, or *Laws of the Gold Coast*, revised edition, Vol. IV, 1937, pp. 78-82.

<sup>2</sup> Text in *Laws of the Gold Coast*, revised edition, Vol. IV, 1937, pp. 83-87.

<sup>3</sup> *Ibid.*, pp. 1269-1276.

<sup>4</sup> *Ibid.*, pp. 1277-1290.

<sup>5</sup> Text in HUDSON: *International Legislation*. Vol. I, 1919-1921, pp. 66-72.

Order in Council Providing for the Administration as Part of the Gold Coast Colony and the Northern Territories of the Gold Coast<sup>1</sup>

*11 October 1923, as Amended 1932 and 1934*

4. Subject to the provisions of the Mandate, the Northern Section shall be administered as if it formed part of the Protectorate; and, subject as aforesaid, and subject also to the provisions of article 8 of this Order, the Southern Section shall be administered as if it formed part of the Colony, and, until the Governor shall by proclamation issued with His Majesty's approval, signified through a Secretary of State, otherwise ordain, as if it formed part of the Eastern Province thereof.

5. So far as the same may be applicable, the law for the time being in force in the Protectorate shall as from the date of the commencement of this Order, apply to and be the law in force in the Northern Section, but it shall be lawful for the Governor, from time to time, by ordinance to modify or amend any provision contained in such law in its application to the said Northern Section or to exclude any such provision from application thereto and the Governor shall have full power by ordinance to make all such provision as may from time to time be necessary for the administration of justice, the raising of revenue, and generally for the peace, order and good government of the said Northern Section. Provided always that, should any such law so applied as aforesaid or any ordinance enacted by the Governor as aforesaid be repugnant to any provision of the Mandate, such law or ordinance shall to the extent of such repugnancy, but not otherwise, be and remain absolutely void and inoperative.

6. So far as the same may be applicable, the law for the time being in force in the Colony shall, as from the date of the commencement of this Order, apply to and be the law in force in the Southern Section, but it shall be lawful for the Governor, from time to time, by ordinance to modify or amend any provision contained in such law, in its application to the said Southern Section, or to exclude any such provision from application thereto, and the Governor shall have full power by ordinance to make all such provision as may from time to time be necessary for the administration of justice, the raising of revenue, and generally for the peace, order and good government of the said Southern Section. Provided always that, should any such law so applied as aforesaid or any ordinance enacted by the Governor as aforesaid be repugnant to any provision of the Mandate, such law or ordinance shall to the extent of such repugnancy, but not otherwise, be and remain absolutely void and inoperative.

**Nigeria**

Order in Council Providing for the Establishment of a Legislative Council for the Colony and Protectorate<sup>2</sup>

*21 November 1922*

.....

<sup>1</sup> Text in *British and Foreign State Papers*, Vol. 117, p. 116, with amendments in *idem*, Vol. 135, p. 80 and *Statutory Rules and Orders*, Vol. I, 1934, p. 659; extracts from text in *Constitutions of All Countries*, Vol. I, pp. 473-474.

<sup>2</sup> Text in *British and Foreign State Papers*, Vol. 116, p. 249, with amendment in *idem*, Vol. 128, p. 23.



Letters Patent Constituting the Office of Governor and Commander-in-Chief and Providing for the Government thereof<sup>1</sup>

*9 December 1922, as Amended 21 October 1935*

XIV. *Substantially identical with Cyprus Letters Patent, paragraph 16, p. 43.*

Royal Instructions to the Governor and Commander-in-Chief of the Colony<sup>2</sup>

*9 December 1922, as Amended 20 April 1937*

16. *Substantially identical with Bermuda Royal Instructions, paragraph 24, p. 290.*

17. *Substantially identical with British Guiana Royal Instructions, paragraph 14, p. 292.*

20. *Substantially identical with Bahamas Royal Instructions, paragraph 27, p. 290.*

23. *Substantially identical with Kenya Royal Instructions, paragraph 40, p. 642.*

25. *Substantially identical with Bahamas Royal Instructions, paragraph 30, p. 290.*

Order in Council Providing for the Exercise of Jurisdiction in the Protectorate by the Governor and Commander-in-Chief of the Colony<sup>3</sup>

*21 November 1922, as Amended 3 October 1935*

12. All ordinances whether passed by the Legislative Council or by the Governor as aforesaid shall be subject to the following conditions or provisos:

(1) Nothing in any such ordinance or ordinances contained shall take away or affect any rights secured to any Natives in the Protectorate by any treaties or agreements made on behalf or with the sanction of Her Majesty Queen Victoria, His late Majesty King Edward VII, or of His Majesty, and all such treaties and agreements shall be and remain operative and in force, and all pledges and undertakings therein contained shall remain mutually binding on all parties to the same.

(2) In the making of ordinances any Native laws by which the civil relations of any Native Chiefs, tribes, or populations under His Majesty's protection are now regulated shall be respected, except so far as the same may be incompatible with the due exercise of His Majesty's power and jurisdiction, or clearly injurious to the welfare of the said Natives.

.....

If any ordinance to which the provisions of this article apply shall be in any respect repugnant to the provisions of this Order or of any other order made by

<sup>1</sup> Text in *Statutory Rules and Orders*, 1922, p. 1139, with amendment in *ibid.*, 1935, p. 1794.

<sup>2</sup> Text in the *Laws of Nigeria in Force on 1 January 1923*, revised edition, by Donald KINGDON, Vol. IV, 1923, pp. 368-375.

<sup>3</sup> Text in *British and Foreign State Papers*, Vol. 116, p. 242, with amendment in *Statutory Rules and Orders*, 1935, p. 477; extracts from text in *Constitutions of All Countries*, Vol. I, pp. 524-525.

His Majesty in Council, such ordinance shall be read subject to such order and shall to the extent of such repugnancy be absolutely void.

### Royal Instructions to the Governor and Commander-in-Chief of the Protectorate<sup>1</sup>

*9 December 1922, as Amended to 21 October 1935*

- 6. *Substantially identical with Ashanti Royal Instructions, paragraph 6, p. 658.*
- 11. *Substantially identical with Kenya Royal Instructions, paragraph 40, p. 642.*
- 13. *Substantially identical with Bahamas Royal Instructions, paragraph 30, p. 290.*

### Native Authority Ordinance, 1933<sup>2</sup>

- 2. In this Ordinance:  
 "Native authority" means any Chief or other Native of Nigeria or other person or any Native council or group of such Natives or other persons appointed to be a Native authority under this Ordinance for the area concerned:
  - 3. (1) The Governor, by notice published in the Gazette, may:
    - (a) Constitute the office of Native authority for any specified area;
    - (b) Appoint to such office so constituted any Chief or other Native of Nigeria or other person or any Native council or group of such Natives or other persons, and
    - (c) May direct that any Native authority appointed under this section shall be subordinated to any other Native authority so appointed.
- 8. Subject to the provisions of any ordinance or other law for the time being in force, a Native authority may, subject to the general or specific directions of the Native authority, if any, to whom it is subordinate, issue orders, to be obeyed by such persons within its area as may be subject to its jurisdiction and to whom the orders relate, for all or any of the following purposes:
  - (a) Prohibiting, restricting or regulating the manufacture, distillation, sale, transport, distribution, supply, possession, and consumption of intoxicating liquors;
  - (b) Prohibiting, restricting or regulating gambling;
  - (c) Prohibiting, restricting or regulating the carrying and possession of weapons;
  - (d) Prohibiting any act or conduct which in the opinion of the Native authority might cause a riot or disturbance or a breach of the peace;
  - (e) Preventing the pollution of the water in any stream, water-course, or water-hole, and preventing the obstruction of any stream or water-course;
  - (f) Prohibiting, restricting or regulating the cutting or destruction of trees;
  - (g) Preventing the spread of infectious or contagious disease, whether of human beings or animals, and for the care of the sick;
  - (h) Requiring such persons to report the presence within the area of its authority of any person who has committed an offence for which he may be arrested without a warrant or for whose arrest a warrant has been issued, or of any property stolen or believed to have been stolen whether within or without such area;

<sup>1</sup> Text in the *Laws of Nigeria in Force on 1 January 1923*, Vol. IV. pp. 376-380.

<sup>2</sup> Text in *Native Administration in Nigeria*, by Margery PERHAM, Oxford, 1937, pp. 383-393.

- (i) Prohibiting, restricting or regulating the migration of Natives from or to the area of its authority;
- (j) Requiring the birth or death of any persons subject to its jurisdiction to be reported to it or to such person as it may direct;
- (k) Prohibiting, restricting or regulating the movement in or through the area of its authority of livestock of any description;
- (l) Prohibiting, restricting or regulating the burning of grass or bush, and the use of fire or lights in any manner likely to ignite any grass or brush in contravention of any law or regulation;
- (m) For the purpose of exterminating or preventing the spread of tsetse fly;
- (n) Requiring any Native to cultivate land to such extent and with such crops as will secure an adequate supply of food for the support of such Native and of those dependent upon him;
- (o) Prohibiting, restricting, regulating or requiring to be done any matter or thing which the Native Authority, by virtue of any Native law or custom for the time being in force and not repugnant to morality or justice, has power to prohibit, restrict, regulate or require to be done; and
- (p) For any other purpose, whether similar to those hereinbefore enumerated or not, which may, by notice published in the Gazette, be sanctioned by the Governor, either generally or for any particular area.

### Cameroons

#### British Mandate for the Cameroons<sup>1</sup>

20 July 1922

2-10. *Substantially identical with articles 3-11 of the Belgian Mandate for East Africa, pp. 640-641.*

### Sierra Leone

#### The Sierra Leone (Legislative Council) Order in Council, 1924<sup>2</sup>

16 January 1924

4. The Council shall consist of:  
 Three Elected Unofficial Members; and not more than seven Nominated Unofficial Members of whom three shall be Paramount Chiefs of the Protectorate.

#### Letters Patent Constituting the Office of Governor and Commander-in-Chief and Providing for the Government<sup>3</sup>

28 January 1924

XV. *Substantially identical with Cyprus Letters Patent, paragraph 16, p. 43.*

<sup>1</sup>Text in HUPSON: *International Legislation*, Vol. I, 1919-1921, pp. 78-84.

<sup>2</sup>Text in *British and Foreign State Papers*, Vol. 119, p. 4 with amendment in *idem*, Vol. 134, p. 87; extracts from text in *Constitutions of All Countries*, Vol. I, pp. 574-577.

<sup>3</sup>Text in *Statutory Rules and Orders*, 1924, p. 1183.

# Royal Instructions to the Governor and Commander-in-Chief of the Colony<sup>1</sup>

*28 January 1924, as Amended 19 January 1929*

16. *Substantially identical with Bermuda Royal Instructions, paragraph 24, p. 290.*

17. *Substantially identical with British Guiana Royal Instructions, paragraph 14, p. 292.*

20. *Substantially identical with Bahamas Royal Instructions, paragraph 27, p. 290.*

23. *Substantially identical with Kenya Royal Instructions, paragraph 40, p. 642.*

25. *Substantially identical with Bahamas Royal Instructions, paragraph 30, p. 290.*

## Order in Council Providing for the Exercise of Jurisdiction in the Protectorate<sup>2</sup>

*16 January 1924*

9. All ordinances passed by the Legislative Council shall be subject to the following conditions or provisos:

(1) In the making of ordinances any Native laws by which the civil relations of any Native Chiefs, tribes, or populations under His Majesty's protection are now regulated shall be respected, except so far as the same may be incompatible with the due exercise of His Majesty's power and jurisdiction, or clearly injurious to the welfare of the said Natives.

.....

If any ordinance to which the provisions of this article apply shall be in any respect repugnant to the provisions of this Order or of any other order made by His Majesty in Council, such ordinance shall be read subject to such order and shall to the extent of such repugnancy be absolutely void.

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<sup>1</sup> Text in *Laws of the Colony and Protectorate of Sierra Leone, in Force on 1 January 1925*, revised edition, by Michael Francis Joseph McDONNELL, Vol. III, pp. 899-906.

<sup>2</sup> Text in *British and Foreign State Papers*, Vol. 119, p. 20; extracts from text in *Constitutions of All Countries*, Vol. I, pp. 577-578.

## EGYPT

Constitutions of 19 April 1923 and 22 October 1930<sup>1</sup>

## PART II. RIGHTS AND DUTIES OF EGYPTIANS

3. All Egyptians are equal before the law. They enjoy civil and political rights equally and are equally liable to public duties and obligations without distinction of race, language and religion. . .

4. Individual liberty is guaranteed.

7. Egyptians shall not be expelled from Egyptian territory.

They shall not be prohibited from residing in any particular locality or compelled to reside in a specified place, except in the cases prescribed by law.

9. Property is inviolable. No-one may be deprived of his property except for reasons of public utility in the cases and in the manner prescribed by law and in consideration of fair compensation.

10. Punishment by general confiscation of property is prohibited.

12. Liberty of conscience is absolute.

13. The State protects, in conformity with the customs established in Egypt, the free practice of all religions and beliefs, provided that they are not prejudicial to public order or morals.

14. Freedom of opinion is guaranteed. Within the limits of the law every person has the right to express his thoughts freely, in word, in writing, pictorially or otherwise.

15. The press is free within the limits laid down by law. Preventive censorship is prohibited. Warnings, suspension or suppression of newspapers by administrative procedure are likewise prohibited, except where it may be necessary to have recourse to these measures for the protection of the social order.

16. No restriction may be imposed on the free use of any language in private relations, commerce, religion, the press or publications of any kind or at public assemblies.

17. The right to give instruction is free to all in so far as the instruction given is not contrary to public order or morals.

18. Public education shall be regulated by law.

19. Elementary education is compulsory for young Egyptians of both sexes. It is given free of charge in the public makhtabs.

20. Egyptians have the right to assemble peaceably and without arms. The police shall not be entitled to attend assemblies and it shall not be necessary to give notice thereof to the police.

This provision shall not apply to public assemblies which are subject to statutory provisions and shall not preclude or restrict the taking of any measures requisite for the protection of the social order.

21. Egyptians have the right of association. The law shall lay down rules governing the exercise of this right.

22. Egyptians have the right to apply to the public authorities by means of signed petitions. Constituted authorities and bodies corporate alone have the right to address petitions collectively.

154. The application of this Constitution shall not affect the obligations of Egypt to foreign States, nor the rights enjoyed by aliens in Egypt under any law or treaty or in conformity with recognised custom.

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<sup>1</sup> English translation from French texts in *British and Foreign State Papers*, Vol. 118, 1923, part II, pp. 198-215 and DARESTE: *Les constitutions modernes*, 4th edition, Vol. V, 1933, pp. 444-445.

## FRENCH EQUATORIAL AFRICA

### Decree Providing for the Administrative Reorganisation of French Equatorial Africa<sup>1</sup>

*27 February 1941*

#### TITLE I. ORGANISATION OF THE GENERAL GOVERNMENT

8. The Administrative Council of French Equatorial Africa is composed as follows:

*(Official Members)*

Four French citizens elected respectively by each of the Chambers of Commerce of Libreville, Brazzaville, Bangui and Fort-Lamy, at united meetings of all of their sections;

Four members who are French subjects, elected by the Native electoral colleges under the conditions determined by a decree of the Governor General.

.....

10. The Administrative Council meets at least once a year.

.....

It must be consulted:

- (1) On budgets and accounts;
- (2) On the method of assessment of and the rules for the collection and apportionment of taxes in French Equatorial Africa;
- (3) On the regulation of labour dues and on general programmes for the utilisation of statute labour and funds paid in commutation thereof;
- (4) On the annual programmes of works to be executed with local resources;
- (5) On the programme of major works and health expenses to be financed by loans;
- (6) On proposals for loans;
- (7) On temporary alienations of the private domain of the Colony which are of indeterminate duration or for longer than five years and on permanent alienations;
- (8) On expropriations for reasons of public utility and on the acquisition of immovable property;
- (9) On the granting of concessions for services of public utility;
- (10) On transactions and adjudications concerning works and supplies worth more than 500,000 francs; and generally in all circumstances in which its opinion is required by laws or regulations.

It may also be called upon to deliberate upon any question affecting French Equatorial Africa which is submitted for its consideration by the Governor-General.

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<sup>1</sup> English translation from French text in *Journal officiel de la France libre, lois et décrets*, Year I, No. 81, 12 July 1941.

## TITLE II. ORGANISATION OF THE TERRITORIES

13. There is established in each territory a Council of Local Interests composed as follows:

*(Official Members)*

The member of the Administrative Council elected for the territory as a French citizen or his substitute, and a second French citizen member specially chosen for the purpose by the Chamber of Commerce under the same conditions as those fixed in article 8 above.

The member of the Administrative Council elected for the territory as a French subject or his substitute, and a second French subject member specially appointed for the purpose by the Governor-General, after hearing the opinion of the Chief of the Territory, among the members of the Councils of Notables of the territory.

.....

14. *(The Council of Local Interests)* must be consulted:

- (1) On proposed expenditure submitted annually to the Governor-General for incorporation in the local budget;
- (2) On taxes special for the territory;
- (3) On the annual programme of works;
- (4) On transactions and adjudications for works and supplies between 80,000 and 500,000 francs in value;
- (5) On the developing of building lands in urban areas and the grant of concessions of lands of less than 200 hectares.

They may also be consulted on any question affecting the territory which may be submitted to them by the Governor or the Chief of the Territory.

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## FRENCH SOMALILAND

*An account of the constitutional arrangements of French Somaliland is contained in ARTHUR GIRAULT, Principes de colonisation et de législation coloniale, 5th edition, Vol. II, 1929, p. 116.*

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## FRENCH WEST AFRICA

Decree to Provide for the Reorganisation of the General  
Government of French West Africa<sup>1</sup>

18 October 1904

7. Expenditure of common interest to the whole of French West Africa shall be provided for in a general budget drawn up by the Governor-General in Council

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<sup>1</sup> English translation from French text in *Journal officiel de la République française*, 21 Oct. 1904, p. 6252.

and approved by a decree issued on the recommendation of the Minister of the Colonies.

This budget shall make provision for expenditure:

.....

- (6) On public works of general interest, a list of which shall be drawn up every year by the Governor-General in Council and approved by the Minister of the Colonies.

### Decree Reorganising the Government Council<sup>1</sup>

*4 December 1920, as Amended 30 March 1925*

1. The Government Council of French West Africa is composed as follows:  
(*Official members — representatives of the Councils of the separate colonies.*)

A French citizen as delegate of the Dakar Chamber of Commerce elected by this body.

A delegate of the Chambers of Commerce of Senegal other than that of Dakar elected by these bodies.

.....

7. The Governor-General in Government Council approves the local budgets of the Colonies of French West Africa, and adopts the general budget, the budgets annexed to the general budget, and the special budgets for loans.

He draws up the list of public works of general interest to be provided for in the general budget.

.....

He determines the method of taxation and the rules regarding the collection and apportionment of taxes of every description collected throughout French West Africa on the import and export of goods and on shipping, as well as other indirect taxes which are applicable to the territory of the group.

He determines the tariffs of the industrial undertakings of the Government Council.

.....

### Cameroons

#### French Mandate for the Cameroons<sup>2</sup>

*20 July 1922*

2. *Substantially identical with article 3 of the Belgian Mandate for East Africa, p. 640.*

3. The Mandatory shall not establish in the territory any military or naval bases, nor erect any fortifications, nor organise any native military force except for local police purposes and for the defence of the territory.

<sup>1</sup> English translation from French text in *Journal officiel de la République française*, 9 Dec. 1920, pp. 20249-20250, and 5 Apr. 1925, p. 3642.

<sup>2</sup> Text from HUDSON: *International Legislation*, Vol. I, 1919-1921, pp. 72-78.



It is understood, however, that the troops thus raised may, in the event of general war, be utilised to repel an attack or for defence of the territory outside that subject to the Mandate.

4-10. *Substantially identical with articles 5-11 of the Belgian Mandate for East Africa, pp. 640-641.*

## Senegal

### Decree to Provide for the Administrative Reorganisation of Senegal and for the Creation of a Colonial Council<sup>1</sup>

*4 December 1920, as Amended 30 March 1925*

2. The Privy Council of Senegal shall consist of:

*(Official Members)*

A notable who is a French citizen, elected by the Chamber of Commerce of Saint-Louis;

Three other notables, one of whom shall be a French citizen and the others two French subjects, appointed by an order of the Governor-General on the recommendation of the Lieutenant-Governor. . .

5. The competence of the Privy Council shall cover the whole of the Colony. It shall be a purely advisory body.

The Privy Council must be consulted with respect to the following matters:

- (1) The draft budget of the receipts and expenditures of the Colony;
- (2) The definitive statement of the receipts and expenditures of the Colony, under the conditions laid down by section 345 of the Decree of 30 December 1912;
- (3) Draft proposals relating to the introduction, amendment or suppression of taxes and dues of all kinds levied or to be levied on account of the budget and respecting the rules for the collection thereof;
- (4) Loans to be contracted by the Colony and the financial guarantees to be given;
- (5) The management and utilisation of the property of the Colony;
- (6) The purchase, alienation or exchange, on behalf of the Colony, of real and personal property which is not set apart for a public service;
- (7) Leases of property leased or rented by or to the Colony, irrespective of the duration of the lease;
- (8) Proceedings to be instituted or defended in the name of the Colony, except in case of urgency, when the Lieutenant-Governor shall have power to institute or defend any proceedings and to take all provisional measures;
- (9) Settlements between parties which affect the rights of the Colony, provided that an appeal to arbitration shall always be admitted, subject to the approval of the Governor-General;
- (10) Acceptance or refusal of donations and bequests made to the Colony, except in the case of real property subject to a third party interest or to any condition requiring it to be used for a particular purpose, and provided that the donations in question are not contested;
- (11) Offers made by communes, by associations or by individuals to contribute to the cost of main roads, secondary roads, canals or other works payable by the Colony;

<sup>1</sup> English translation from French text in *idem*, 9 Dec. 1920, pp. 20245-20248, and 5 Apr. 1925, pp. 3462-3463.

- (12) The conditions for the carrying out by the Colony of works for public use paid for from the moneys of the Colony, and the scale of charges to be levied;
- (13) Agreements and terms for the concession of works or services of local interest to associations, companies or individuals, and the working of such concessions in so far as the property and finances of the Colony are concerned;
- (14) In general, all matters with respect to which the laws and regulations provide that privy councils or administrative councils must be consulted.

The Lieutenant-Governor shall consult the Privy Council with respect to other matters, whenever he considers this necessary.

6. The Colonial Council of Senegal shall consist of:

Twenty-four members elected by French citizens living in the Colony of Senegal;

Sixteen Native Chiefs elected by the whole body of Provincial and cantonal chiefs in the Colony.

20. The Native Chiefs appointed to the Colonial Council as representatives must be provincial or cantonal chiefs who have been officially appointed to these posts by the Lieutenant-Governor, who perform their duties in the district where they have been appointed, and who speak French fluently.

25. A member of the Colonial Council shall not at the same time be a member of the Privy Council of the Colony and shall not be engaged in the carrying out of public works, the cost of which is defrayed from the local budget.

42. The Colonial Council shall decide respecting the following matters:

- (1) Changes in the purposes for which the property of the Colony is set apart or used, where the property in question is not allocated to a public service;
- (2) The management of the property of the Colony;
- (3) Acceptance or refusal of donations or bequests to the Colony, except in the case of real property subject to a third party interest or to any conditions requiring it to be used for a particular purpose, and provided that the donations in question are not contested;
- (4) Classification, direction and change of classification of roads;
- (5) Classification, direction and change of classification of railways of general interest; the maintenance of such railways and the grants which may be made to them from the local budget, in every case after consultation with the municipal assemblies or, in default thereof, the administrative bodies which take their place;
- (6) Offers made by communes, associations or private individuals to contribute to the cost of main roads, secondary roads, canals or other works payable by the Colony;
- (7) The contribution of the Colony to the cost of works to be carried out by the State and which are of interest to the Colony;
- (8) Schemes, plans and estimates for works to be carried out with the moneys of the Colony.

Decisions respecting the matters enumerated above shall be definitive and shall become enforceable, unless the Lieutenant-Governor, within a period of two months, reckoned from the closing of the session, has requested the annulment of the said decisions on the ground that they are *ultra vires* or that they constitute a violation of laws and regulations having the force of law.

Annulment shall be declared by an Order of the Governor in the committee of the Council of Government.

43. The Colonial Council shall decide respecting the following matters, subject to the approval of the Governor-General in Council of Government:

- (1) The method of assessment, the scales and the rules for the collection and apportionment of direct and indirect taxes to be levied for the benefit of the Colony;
- (2) The conditions for the carrying out by the Colony of works intended for public use and the scales of charges to be levied;
- (3) The establishment and maintenance of ferries and fords and the fixing of the scales of charges to be levied;
- (4) The purchase, alienation and change in the use made of property of the Colony allocated to a public service.

Decisions adopted by the Colonial Council respecting these matters shall not become effective otherwise than by an Order of the Governor-General in Council of Government.

If the Governor-General refuses to approve a decision of the Colonial Council respecting any matter specified in the first paragraph, the matter in question shall be referred to the Colonial Council for a fresh decision. Pending the approval of the Governor-General, the taxes and charges shall be levied on the former basis.

44. The Colonial Council of Senegal shall decide respecting the following matters, subject to approval by a decree issued in Council of State:

- (1) Loans to be contracted by the Colony and the financial guarantees to be given;
- (2) Acceptance or refusal of donations and bequests made to the Colony, in the case of real property subject to a third party interest or to any condition requiring it to be used for a particular purpose, or where the donation or bequest is contested.

55. The Colonial Council shall elect from amongst its members a standing committee consisting of eight members, five of whom shall be selected from the representatives of French citizens and three from the representatives of Native Chiefs.

62. The standing committee shall decide respecting the following matters:

- (1) The purchase and alienation of real and personal property of the Colony in cases where the property is not allocated to a public service;
- (2) Leases of property rented or leased by or to the Colony, irrespective of the duration of the lease;
- (3) Proceedings to be instituted or defended in the name of the Colony, except in case of urgency, when the Lieutenant-Governor shall have power to institute or defend any proceedings, without a preliminary decision of the Council, and also to take any provisional measures;
- (4) Settlements between parties which affect the rights of the Colony, provided that an appeal to arbitration shall always be permissible, subject to the approval of the Governor-General;
- (5) Insurance of real and personal property of the Colony;
- (6) The establishment, maintenance and working of markets other than communal markets.

Further, the standing committee shall deal with matters referred to it by the Colonial Council, within the limits of the powers delegated to it by the latter. The powers thus delegated shall not be general in character but must relate to specified matters exclusively. Lastly, the standing committee shall express an opinion on all matters referred to it by the Lieutenant-Governor, and on matters which the committee considers itself bound to bring to the attention of the Lieutenant-Governor in the interest of the Colony.

63. The Colonial Committee, after hearing the Lieutenant-Governor or his representative, shall:

- (1) Express its opinion respecting the dates and the terms of the loans of the Colony, if recommendations respecting this have not been made by the Colonial Council;
- (2) Fix the date of the adjudication of public works of local utility.

### Sudan, Guinea, Ivory Coast and Dahomey

#### Decree Providing for the Reorganisation of the Administrative Councils<sup>1</sup>

30 March 1925

#### ADMINISTRATIVE COUNCILS

1. The Administrative Councils of the Colonies of French Sudan, the Ivory Coast, French Guinea and Dahomey shall consist of:

*(Official members)*

A French citizen elected as delegate by the chamber or chambers of commerce;

A French citizen elected as delegate by the chamber or chambers of agriculture or, in default of such chambers, by the agricultural section of the chamber of commerce;

Three French subjects elected as members by the native electoral college.

.....

8. The Administrative Council shall be a purely advisory body.

It must be consulted with respect to the following matters (*substantially identical with clauses 2, 3, 4, 6, 9, 10, 12, and 13 of article 5 of the Senegal Decree, pp. 669-670*).

### Togoland

#### French Mandate for Togoland<sup>2</sup>

20 July 1922

2-10. *Identical with the corresponding provisions of the French Mandate for the Cameroons, pp. 668-669.*

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<sup>1</sup> English translation from French text in *Journal officiel de la République française*, 5 Apr. 1925, pp. 3461-3462.

<sup>2</sup> Text in HUDSON: *International Legislation*, Vol. I, 1919-1921, pp. 60-66.

## ITALIAN COLONIES

### Italian East Africa

#### Legislative Decree concerning the Organisation and Administration of Italian East Africa<sup>1</sup>

1 June 1936

#### CHAPTER I. POLITICAL ADMINISTRATIVE ORGANISATION OF ITALIAN EAST AFRICA

22. A General Council (Consiglio Generale) shall be set up for the Governor-General.

This Council consists entirely of official members.

23. The General Council must be consulted with respect to:

.....

(c) The annual plans for public works and other plans of general interest;

(d) Problems of a general nature relating to agricultural, economic and industrial development;

.....

24. An Advisory Council (Consulta) shall be set up for Italian East Africa.

The Advisory Council shall be presided over by the Viceroy Governor-General and shall consist of the following members: (*official members*)

Six Italian citizens appointed for two years by a Decree of the Viceroy Governor-General and chosen from persons belonging to the classes of producers and workers in Italian East Africa;

Six chiefs or notables appointed for two years by a Decree of the Viceroy Governor-General and chosen from subjects of Italian East Africa.

The Viceroy Governor-General shall submit to the Advisory Council for examination such programmes of an economic and cultural character as concern particularly subjects in Italian East Africa, such measures as are in any way pertinent to the social and ethnic structure of the populations of Italian East Africa and to their traditions and any other measures on which the advice of the Advisory Council seems to him desirable.

The Advisory Council shall hold an ordinary session at least once a year.

#### CHAPTER II. STATUS OF SUBJECTS OF ITALIAN EAST AFRICA

31. Absolute respect for all religions shall be guaranteed in Italian East Africa.

.....

Respect for local traditions shall be guaranteed to all, provided that such traditions are not contrary to public order and to the general principles of civilisation.

<sup>1</sup> English translation from *Gazzetta Ufficiale* of the Kingdom of Italy, 13 June 1936 (XIV), No. 136, pp. 1912-1917, based in part on *Documents on International Affairs*, Vol. II, 1935, pp. 474-477.

## CHAPTER III. FINANCIAL ADMINISTRATION

37. The receipts of the budget of Italian East Africa shall consist of receipts properly so-called and contributions of the State.

39. . . . .

The proceeds of taxes and dues, irrespective of the nature thereof, shall accrue to the budget of Italian East Africa in so far as they are paid by the tax payer in respect of productive activity which he carries on or property which he possesses in the territory of Italian East Africa.

. . . . .

## CHAPTER IV. ADMINISTRATION OF JUSTICE

50. Subjects shall be judged according to the laws of their religion, country and race, in conformity with rules laid down by judicial ordinances.

. . . . .

## Libya

### Italian Decree-Law Constituting the Organic Ordinance for the Administration of Libya<sup>1</sup>

3 December 1934

## ADMINISTRATIVE DIVISION OF THE TERRITORY

17. The nomadic and semi-nomadic populations of Tripolitania and Cyrenaica shall be divided, according to their traditional constitution, into tribes and, where necessary into sub-tribes.

At the head of each of these is placed a chief appointed by the Commissioner-General.

18. The chief of the tribe shall be personally responsible to the competent authorities for the order and security of the territory in which the tribe sojourns and through which it passes.

He shall exercise, within the scope of the tribe, the faculties and disciplinary powers allowed by the usages recognised by the group.

He shall exercise the other attributions conferred by the administrative ordinance and by the other ordinances in force in the Colony.

Under his direct surveillance and responsibility the chiefs of the sub-tribes shall exercise, within the scope of their groups, analogous functions in accordance with the rules sanctioned by the ordinances.

## THE CONSULTATIVE BODIES

23. The General Council shall examine and discuss subjects placed on the agenda by the Governor-General and bearing on problems of a general character interesting the Colony, and shall express their opinion and submit suggestions thereon.

<sup>1</sup> English translation from *British and Foreign State Papers*, Vol. 137, 1934, pp. 513-529; for Italian text, see *Gazzetta Ufficiale*, No. 299, 21 Dec. 1934.

The opinion of the General Council must always be sought on the following matters:

(a) The annual programmes of public works and other programmes of a general nature.

(b) Problems of a general character concerning the agricultural, economic and industrial development of the Colony.

.....

#### ITALIAN LIBYAN CITIZENSHIP

39. In Libya all Italian Libyan citizens without exception are equal before the law.

40. Italian Libyan citizens shall retain their personal and succession status, if they are of the Mohammedan religion; and their personal status, if they are of the Jewish religion. They shall, in addition, enjoy the following civil and political rights:

(1) Guarantee of individual liberty, which may be restricted only in the cases and the manner established by law.

(2) Inviolability of abode, to which the authorities may have access only in virtue of the law and in the manner prescribed in harmony with local customs.

(3) Inviolability of property, except in cases of expropriation for reasons of public utility, on payment of just compensation, and without prejudice to the limitations laid down by the penal laws and the police ordinances.

(4) The right to compete for civil and military positions in the colonies according to the regulations relating thereto which determine the necessary requirements and the methods of competition.

(5) The exercise of a profession in the Colony, on condition of possessing the necessary diplomas.

41. Respect for religious and local customs is guaranteed.

42. In the schools established by the Government of Libya under the special ordinances governing the matter, nothing may be taught to Mohammedans or Jews which is contrary to their religion.

Private teaching is free, but it shall be subject to Government supervision.

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## LIBERIA

### Constitution of the Republic of Liberia<sup>1</sup>

26 July 1847

#### I. BILL OF RIGHTS

1. All men are born equally free and independent, and have certain natural, inherent and inalienable rights, among which are the rights of enjoying and defending life and liberty, of acquiring, possessing and protecting property, and of pursuing and obtaining safety and happiness.

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<sup>1</sup>Text from Raymond Leslie BUELL: *The Native Problem in Africa*, Vol. II, New York, 1928, pp. 855-864, and *British and Foreign State Papers*, Vol. 125, 1926, part III, p. 882.

3. All men have a natural and inalienable right to worship God according to the dictates of their own conscience, without obstruction or molestation from others: all persons demeaning themselves peaceably, and not obstructing others in their religious worship, are entitled to the protection of law in the free exercise of their own religion, and no sect of Christian shall have exclusive privileges or preference over any other sect; but all shall be alike tolerated; and no religious test whatever shall be required as a qualification for civil office, or the exercise of any civil right.

4. There shall be no slavery within this Republic. Nor shall any citizen of this Republic, or any person resident therein, deal in slaves, either within or without this Republic, directly or indirectly.

8. No person shall be deprived of life, liberty, property or privilege, but by judgment of his peers or the law of the land.

10. . . Nor shall the Legislature make law impairing the obligation of contracts. . .

13. Private property shall not be taken for public use without just compensation.

15. The liberty of the press is essential to the security of freedom in a State; it ought not, therefore, to be restrained in this Republic. The press shall be free to every person who undertakes to examine the proceedings of the Legislature, or any branch of government; and no law shall ever be made to restrain the rights thereof. The free communication of thoughts and opinions, is one of the invaluable rights of man, and every citizen may freely speak, write and print, on any subject, being responsible for the abuse of that liberty. In prosecutions for the publication of papers, investigating the official conduct of officers, or men in a public capacity, or where the matter published is proper for public information the truth thereof may be given in evidence. And in all indictment for libels, the jury shall have right to determine the law and the facts, under the direction of the court, as in other cases.

## V. MISCELLANEOUS PROVISIONS

12. No person shall be entitled to hold real estate in this Republic unless he be a citizen of the same. Nevertheless this article shall not be construed to apply to colonisation, missionary, educational, or other benevolent institutions, so long as the property or estate is applied to its legitimate purpose.

13. None but negroes or persons of negro descent shall be eligible for citizenship in this Republic.

14. The purchase of any land by any citizen or citizens from the aborigines of this country for his or their own use, or for the benefit of others as estate or estates in fee-simple shall be considered null and void to all intent and purpose.

15. The improvement of the Native tribes and their advancement in the arts of agriculture and husbandry being a cherished object of this Government, it shall be the duty of the President to appoint in each county some discreet person whose duty it shall be to make regular and periodical tours through the country for the purpose of calling the attention of the Natives to those wholesome branches of industry, and of instructing them in the same and the Legislature shall, as soon as can conveniently be done, make provisions for these purposes by the appropriation of money.

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## MADAGASCAR

### Decree of the President of the French Republic concerning the Powers of the Resident General in Madagascar<sup>1</sup>

*11 December 1895*

9. The Resident General prepares each year in the Residency Council the budget of Madagascar and its dependencies.

After the approval of this budget by the Minister of the Colonies he takes all the measures necessary for its execution. He submits for the ratification of the Minister of the Colonies all the plans of works, contracts, concessions and enterprises of every nature which would involve a charge upon the budget for longer than the current budgetary period.

### Decree of the President of the French Republic Substituting a Governor-General for the Resident General<sup>2</sup>

*30 July 1897*

.....

### Decree of the Governor-General of Madagascar regarding the Distribution of Administrative Services<sup>3</sup>

*27 June 1924*

.....

### Decree of the Governor-General of Madagascar Reorganising Native Administration in Madagascar and its Dependencies<sup>4</sup>

*January 1926*

1. For the purpose of the administration of the Native population the districts are divided into cantons constituted by the group villages.

2. Each canton is under the authority of an official of the Special Services with the title of Chief of the Canton. . .

3. The duties of the Chief of the Canton are as follows:

#### *b. Health Duties*

The Chief of the Canton notifies the epidemics and epizootics prevalent in the area and cases of leprosy. He watches over the execution of the health regulations.

9. There is created in each district a Council of Notables consisting of one

<sup>1</sup> English translation from French text in *Journal officiel de la République française*, 12 Dec. 1895, p. 6933.

<sup>2</sup> For French text, see *idem*, 3 Aug. 1897, p. 4478.

<sup>3</sup> For French text, see *Journal officiel de Madagascar et dépendances*, 28 June 1924, p. 480.

<sup>4</sup> English translation from French text in *idem*, 23 Jan. 1926, pp. 111-112.

titular and one substitute delegate for each canton elected for two years by the whole of the village chiefs of the canton and presided over by the District Chief.

10. The Council of Notables which shall be convened at least once each year adopts *vœux* on questions to which it wishes to draw the attention of the Administration.

It gives its opinion:

(c) On the fixing of the average wage of native labour;

(d) On the creation or suppression of markets;

.....

Decree of the Governor-General of Madagascar Reorganising  
the Territorial Administration of Madagascar  
and its Dependencies<sup>1</sup>

15 November 1927

.....

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**MAURITIUS**

Capitulation of 3 December 1810<sup>2</sup>

7. All private property shall be respected.

8. The inhabitants shall preserve their religions, laws and customs.

Letters Patent Constituting the Office of Governor  
and Commander-in-Chief<sup>3</sup>

11 September 1913, as Amended 18 April 1933

55. *Substantially identical with Cyprus Letters Patent, paragraph 16, p. 43.*

Royal Instructions to the Governor and Commander-in-Chief

11 September 1913, as Amended 18 April 1933

14. *Substantially identical with Bahamas Royal Instructions, paragraph 21, p. 289.*

15. *Substantially identical with British Guiana Royal Instructions, paragraph 14, p. 292.*

20. *Substantially identical with Bahamas Royal Instructions, paragraph 27, p. 290.*

24. *Substantially identical with Bahamas Royal Instructions, paragraph 30, p. 290.*

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<sup>1</sup> For French text, see *Journal officiel de Madagascar et dépendances*, 19 Nov. 1927, pp. 1095-1096.

<sup>2</sup> Text in *The Laws of Mauritius*, 1921, Constitution and Legislation, chapter, pp. 748-756.

<sup>3</sup> Text in *Statutory Rules and Orders*, 1913, p. 2372, with amendment in *ibid.*, 1933, p. 2097.

## MOROCCO

### General Act of the International Conference at Algeciras<sup>1</sup>

#### CHAPTER III. ACT OF CONCESSION FOR A STATE BANK<sup>2</sup>

31. A bank shall be established in Morocco under the name of "The Morocco State Bank", to exercise the rights hereinafter specified, which are granted to it by His Majesty the Sultan for a period of forty years from the date of the ratification of the present Act.

32. The Bank, which shall have power to carry on all business within the proper province of banking, shall have the exclusive privilege of issuing notes to bearer, payable on presentation, and receivable as legal tender at the public treasuries of the Moorish Empire.

.....

#### CHAPTER IV. DECLARATION CONCERNING AN IMPROVED YIELD OF THE TAXES AND THE CREATION OF NEW SOURCES OF REVENUE<sup>3</sup>

60. In accordance with the right recognised as belonging to them by article XI of the Madrid Convention, foreigners shall be free to acquire real property throughout the whole extent of the Shereefian Empire and His Majesty the Sultan shall give the necessary instructions to the administrative and judicial authorities to ensure that authorisation to execute deeds shall not be refused without good cause. Subsequent transfers by deed between living persons or after decease shall continue to be effected without any impediment.

.....

Wherever foreigners have acquired real property, they shall be at liberty to erect buildings, provided they conform to the regulations and usages.

Before authorising the execution of deeds of transfer of real property, the Cadi shall satisfy himself, in conformity with Mussulman law, that there is a good title.

.....

61. With the object of creating new sources of revenue for the Makhzen, the Conference recognises, in principle, that a tax may be imposed on town buildings.

A portion of the revenue thus raised shall be set aside to meet the requirements of municipal roads and hygiene, and, in a general manner, to cover the cost of improvements and of conservancy in towns.

The tax shall be leviable on Moorish or foreign proprietors without any distinction; but the tenant or custodian of the key shall be responsible therefor to the Moorish Treasury.

Regulations made by common agreement between the Shereefian Government and the Diplomatic Body at Tangier shall fix the rate of the tax, lay down the

<sup>1</sup>Text from G. Fr. de MARTENS: *Nouveau recueil général de traités*, 2nd series, Vol. XXXIV, pp. 238-295.

<sup>2</sup>More detailed provisions regarding the State Bank are contained in those of articles 21-58 not reproduced here.

<sup>3</sup>More detailed provisions are contained in those of articles 59-76 which are not reproduced here.

manner of collecting and applying it, and determine what proportion of the resources thus created shall be devoted to meeting the cost of improvements and of conservancy in the towns.

At Tangier such proportion shall be paid to the International Sanitary Council, which shall determine the manner of its application until a municipal organisation shall have been created.

72. Opium and kiff shall continue to be a monopoly of the Shereefian Government. Nevertheless, the importation of opium specially destined for medicinal purposes shall be authorised by a special permit, issued by the Makhzen at the request of the Legation of the country to which the importing chemist or doctor belongs. The Shereefian Government and the Diplomatic Body shall, by common agreement, determine the maximum quantity that may be imported.

73. The representatives of the Powers take note of the intention of the Shereefian Government to extend to tobacco of all kinds the monopoly which at present exists in the case of snuff. They reserve the right of their nationals to due compensation for any losses which the said monopoly may inflict on such of them as carry on a tobacco business under the present system. Failing an amicable arrangement, the amount of such compensation shall be fixed by experts nominated jointly by the Makhzen and the Diplomatic Body, who shall be guided by the provisions agreed upon in the matter of expropriations in the public interest.

74. The principle of awarding contracts without regard to nationality shall be applied to the farming of the opium and kiff monopoly. The same course shall be adopted in respect to the tobacco monopoly if such be introduced.

#### CHAPTER VI. DECLARATION RELATIVE TO THE PUBLIC SERVICES AND PUBLIC WORKS

105. With a view to ensure the application of the principle of economic liberty without inequality, the Signatory Powers declare that in no case shall the rights of the State over the public services of the Shereefian Empire be alienated for the benefit of private interests.

106. Should the Shereefian Government consider it necessary to have recourse to foreign capital or to foreign industries for the working of public services or for the execution of public works, roads, railways, ports, telegraphs or other, the Signatory Powers reserve to themselves the right to see that the control of the State over such large undertakings of public interest remain intact.

107. The validity of such concessions as may be granted for the purposes specified in article 106, or for furnishing supplies to the State, shall, throughout the Shereefian Empire, be subject to the principle of public awards on tenders, without respect of nationality, as regards all matters which, by the rules observed under the laws of foreign countries, admit of the application of that principle.

108. So soon as it shall have been decided to proceed to the execution of particular public works by calling for tenders, the Shereefian Government shall notify such decision to the Diplomatic Body, to which it shall, in due course, communicate the plans, specifications, and all documents annexed to the call for tenders, so that the nationals of all the Signatory Powers may obtain information respecting the projected works, and be in a position to compete for them. A sufficient time limit shall be fixed for this purpose in the call for tenders.

109. The specifications shall not contain, either explicitly or implicitly, any condition or provision of a nature to violate the principle of free competition, or to place the competitors of one nationality at a disadvantage as against the competitors of another.

110. The contracts shall be made in the form and according to the general conditions prescribed by regulations to be drawn up by the Shereefian Government, with the assistance of the Diplomatic Body.

The contract shall be awarded by the Shereefian Government to the person or persons who, while complying with the terms of the specifications, shall have submitted the most generally advantageous offer.

111. The rules laid down in articles 106 to 110 shall be applied to concessions for the working of cork-tree forests, in accordance with the laws governing this matter in the respective foreign countries.

112. A Shereefian Firman shall lay down the conditions of the concession and of the working of mines, ores, and quarries. In drawing up this Firman the Shereefian Government shall be guided by the laws governing this matter in foreign countries.

113. If, in the cases mentioned in articles 106 to 112, it should be necessary to enter into occupation of particular properties, it shall be lawful to proceed to expropriation, conditionally upon the previous payment of proper compensation and the observance of the following rules.

114. Expropriation shall not take place except on the ground of public interest, and provided the necessity for it shall have been established by an administrative enquiry, held in accordance with rules to be laid down in Shereefian regulations drawn up with the assistance of the Diplomatic Body.

115. Where the owners of property are Moorish subjects, His Shereefian Majesty shall take the necessary measure to ensure that no obstacles are placed in the way of the execution of such works as he may have declared to be of public interest.

116. Where the owners are foreigners, expropriation shall be effected in the following manner:

In case of disagreement between the competent Government Department and the owner of the property to be expropriated, the amount of compensation shall be determined by a special jury, or, if need be, by arbitration.<sup>1</sup>

## French Zone

### Treaty between France and Morocco for the Organisation of the French Protectorate in the Shereefian Empire<sup>2</sup>

30 March 1912

1. The Government of the French Republic and His Majesty the Sultan have agreed to introduce in Morocco a new régime involving the administrative, judicial, educational, economic, financial and military reforms which the French Government considers it desirable to introduce on Moroccan territory.

This régime will safeguard the religious situation, respect, and traditional prestige of the Sultan, the practice of the Moslem religion and of religious institutions, notably those of the "Habous". A reformed Shereefian Makhzen will be organised.

The Government of the Republic will agree with the Spanish Government concerning the interests which this Government has on account of its geographical position and its territorial possessions on the Moroccan coast.

In like manner, the city of Tangier shall keep the special character which it has been recognised to possess and which shall determine its municipal organisation.

<sup>1</sup> For details, see articles 117 to 119.

<sup>2</sup> English translation from French text in J. BASDEVANT (ed.): *Traité et conventions en vigueur entre la France et les puissances étrangères*, Paris, Vol. 3, 1920, pp. 69-74.

4. The measures which the new protectorate régime makes necessary shall be enacted on the proposal of the French Government by His Shereefian Majesty or by the authorities to which he has delegated power.

The same procedure shall be followed for new regulations and for modifications of existing regulations.

5. The French Government shall be represented before His Shereefian Majesty by a Commissary Resident General in whom shall be vested all the powers of the Republic of Morocco and who shall watch over the execution of the present agreement.

The Commissary Resident General shall be the sole intermediary of the Sultan towards foreign representatives and in the relations which these representatives maintain with the Moroccan Government. He shall more particularly be responsible for all questions affecting foreigners in the Shereefian Empire.

He shall have the power to approve and promulgate, in the name of the French Government, all Decrees enacted by His Shereefian Majesty.

7. The Government of the French Republic and the Government of His Shereefian Majesty reserve the right to fix by common agreement the basis of a financial reorganisation which, while respecting the rights conferred upon the holders of the bonds of Moroccan public loans, makes it possible to keep the engagements of the Shereefian treasury and to collect regularly the revenues of the Empire.

8. His Shereefian Majesty undertakes not to contract in future, directly or indirectly, any public or private loan, or to grant, in any form whatsoever, any concession, without the authorisation of the French Government.

### Shereefian Firman concerning the Organisation of the Makhzen<sup>1</sup>

31 October 1912

1. The administration of the Empire of Morocco is assured under Our authority by:

- (1) A Prime Minister with the title of Grand Vizier.
- (3) A Minister of Finance.

.....

2. The Grand Vizier is responsible for the preservation of the State archives, for the general administration of the country, for public security, for education, for health, for public works, for agriculture, forests, mines, and generally for everything which is not within the competence of the other ministries.

The Grand Vizier shall, before taking up any measure or decision, reach an agreement with the representatives of the Commissary Resident General of the French Republic, that is to say with the Secretary General attached to the Resident General, or with the Director General of Finance or the Director of Public Works, according to whether the matter in question is within the competence of one or the other of these three officials. . .

4. The Minister of Finance is responsible for all questions concerning revenues and expenditure of the Moroccan Government, notably for the preparation, execution and regulation of the budget of the Empire, for the establishment and calculation of taxes and the administration of domainial lands. He shall, before taking any measure or decision, reach agreement with the Director General of Finance.

<sup>1</sup> Translation from French text in *Bulletin officiel du Protectorat de la République française au Maroc*, Year I, No. 3, 15 Nov. 1912, p. 17.

Decree of the President of the French Republic Fixing the  
Attributions and Powers of the Commissary Resident General<sup>1</sup>

11 June 1912

2. Substantially identical with article 5 of the Agreement of 30 March 1912,  
p. 682.

**Spanish Zone**

*For the very complicated legislation applicable to the Spanish Zone of Morocco reference should be made to J. LÓPEZ OLIVÁN, Legislación vigente en la Zona de Protectorado Espanol en Marruecos, 4 vols., Madrid, 1931, especially Vol. 2, Legislación organica.*

**Tangier**

Convention on the Organisation of the Statute of the Tangier Zone<sup>2</sup>

18 December 1923

7. The Tangier Zone shall respect all treaties in force.

Economic equality among nations, resulting from such treaties, shall continue to be observed in Tangier, even if the said treaties are subsequently abrogated or modified.

11. Subject to the observance of public order, freedom of worship shall be assured in the Tangier Zone.

12. The Powers signatories of the Act of Algeciras have the right to maintain in the Tangier Zone the schools and all the establishments which belong to them, or to their nationals, at the date of the entry into force of the present Convention.

Any establishments which may subsequently be created must conform to the regulations which will be promulgated. These regulations shall be based, as regards their general principles, on those in force in the French and Spanish Zones of the Shereefian Empire.

19. In order that each Zone may receive the mining dues which properly belong to it, the respective dues shall be credited to the Zone in which the minerals concerned are extracted even though the dues be collected by a custom office of another Zone.

20. The Tangier customs shall levy duties and taxes only on goods destined exclusively for consumption in the Zone.

Goods landed at Tangier and destined for use or consumption in the French or Spanish Zones shall enjoy the benefit of the ordinary rules of transit, warehousing or temporary admission, the proper custom duties being collected at the custom houses of the Zone of consumption.

The transit regulations will be based on the conclusions of the Barcelona Conference of 1921.

<sup>1</sup> *Idem*, Year I, No. 1, 1 Nov. 1912, pp. 2-3.

<sup>2</sup> Text from HUDSON: *International Legislation*, Vol. II, 1922-1924, pp. 1191-1218.

Similarly, imported goods arriving through the French or Spanish Zones shall pay custom duty on entering the Tangier Zone.

Export duties will be leviable only on goods originating in the Zone.

22. Inasmuch as the autonomy of the Tangier Zone cannot prejudice the rights and privileges granted, in conformity with the Act of Algeciras, to the State Bank of Morocco in respect of the whole territory of the Empire, the State Bank shall continue to enjoy in the Zone all the rights which it derives from its charter and from the Regulation of the 9th November, 1906, respecting its relations with the Shereefian Government.

The State Bank for its part shall fulfil towards the Administration of the Zone all the obligations incumbent upon it in virtue of the above-mentioned instruments.

.....

24. Inasmuch as the administrative autonomy of the Zone cannot prejudice the rights, prerogatives and privileges granted in conformity with the Act of Algeciras to the *Société internationale de régie co-intéressée des tabacs au Maroc*, the said Company shall continue to enjoy in the Zone all the rights derived from the instruments by which it is governed. The autonomy of the Tangier Zone cannot interfere with its operation and the authorities shall facilitate the free and full exercise of its rights.

.....

25. Inasmuch as the autonomy of the Zone cannot prejudice the sovereign rights of His Majesty the Sultan, nor his prestige and prerogatives as head of the Mussulman community of the Empire and as head of the Shereefian family residing in Tangier, the administration of the Native population and of Mussulman interests in the Zone as well as the administration of justice shall continue to be exercised, with respect for traditional forms, by a Moroccan staff directly appointed by the Sultan and under the control of his agents.

26. Subject to the maintenance of public order, the free practice of the religion of the Natives and of its traditional customs, and the observance of the traditional Mussulman and Jewish festivals and their ceremonial, shall be respected and guaranteed in the Zone.

28. Moroccan subjects, whether Mussulmans or Jews, shall enjoy complete equality with the nationals of the Powers in the matter of duties and taxes of all kinds.

They shall pay exactly the same duties and taxes.

They shall have the benefit, under the same conditions as foreign nationals, of any relief, hospital or educational institutions which may be created or subsidised by the Zone.

30. The Committee of Control will consist of the consuls *de carrière* of the Powers signatories of the Act of Algeciras or of their substitutes *de carrière*.

.....

32. The legislative powers are vested in an International Legislative Assembly under the presidency of the Mendoub and composed of the representatives of the foreign and Native communities.

The codes enumerated in article 48 below may, however, be abrogated or modified only after agreement between the French and Spanish Zones of the Shereefian Empire and the Committee of Control, whose vote in such cases must be unanimous.

The regulations and fiscal enactments enumerated in the following article may not be abrogated or modified during the first period of two years. On the expiry of this period they may be abrogated or modified with the assent of the Committee of Control on a three-fourths majority vote.

The codes as well as the above-mentioned legislative and fiscal enactments shall be drawn up by commissions of British, Spanish and French experts, whose



labours must be completed within a period of three months dating from the signature of the present Convention.

33. The regulations and fiscal enactments referred to in paragraph 3 of the preceding article are as follows:

Dahir relating to associations.

Dahir regulating the opening and running of liquor shops.

Dahir regulating the practice of the professions of doctor, chemist, dentist, veterinary surgeon and midwife.

Dahir regulating the opening and working of unhygienic, obnoxious or dangerous establishments.

Dahir relating to the protection of historical monuments and sites.

Dahir relating to street alignment, house-planning, servitudes and road dues.

Dahir laying down rules for expropriation and temporary occupation for purposes of public utility.

Statement of the general conditions to be imposed upon contractors for public works.

Dahir laying down the conditions for the temporary occupation of portions of State property.

Dahir relating to the working of quarries.

Dahir enforcing the Mining Regulations of 1914.

Regulations relating to public accountancy.

Dahir fixing the duty and laying down regulations regarding alcohol.

Dahir regulating consumption duties on sugars, principal colonial products and their derivatives (tea, coffee, cocoa, vanilla, etc.), candles and beers.

Dahir relating to registration (rights of transfer) and stamp.

Dahir laying down the conditions of transfers of landed property in accordance with the common law (Shra'a).

45. Subject to any stipulation to the contrary in the present Convention, the rights and obligations accruing from any concession granted in the Tangier Zone before the entry into force of the present Convention shall be transferred to the said Zone.

Any concession granted in the future by the Tangier Zone for a period exceeding the duration of the present Convention, and that of the periods for which it may be renewed, will only be binding on the Shereefian Government, in the event of non-renewal of the statute, if the said Government has, previously, formally approved such concession at the instance of the applicant.

48. . . . .

The three Governments undertake that the preparation of the codes necessary for the functioning of the Court shall be completed within three months from the date of signature of the present Convention. These codes are as follows:

Code respecting the civil status of foreigners in the Zone.

Commercial Code.

Penal Code.

Code of Criminal Procedure.

Code of obligations and contracts.

Code of Civil Procedure with an annex fixing the Court expenses.

Registration Code.

52. Games of chance shall be forbidden in the Tangier Zone.

This prohibition shall be absolute except on a decision, by unanimous vote, of the Committee of Control.

## PORTUGUESE COLONIES

### Colonial Act<sup>1</sup>

*7-8 July 1930, as Amended 21 May 1935*

1. All those provisions of the Political Constitution of the Republic which, from their nature, do not refer exclusively to the Mother Country, shall be applicable to the colonies, provided that they are compatible with the principles set forth in the following articles.

2. It is the essential attribute of the Portuguese nation to fulfil the historic function of possessing and colonising overseas dominions and of civilising the Native populations inhabiting them, as also that of exercising the moral influence ascribed to it by the *Padroado* in the East.

3. The overseas dominions of Portugal are termed colonies and constitute the Portuguese Colonial Empire.

The territory of the Portuguese Colonial Empire is that defined in Nos. (2) to (5) of article 1 of the Constitution.

4. Rights in respect of liberty and the security of person and property are guaranteed to nationals and aliens resident in the colonies, within the terms of the law. Both nationals and aliens may be refused entry into any colony, and both may be expelled in accordance with the regulations if their presence gives rise to serious inconvenience of domestic or international character. Their only appeal against such decisions is to the Government.

5. The component parts of the Portuguese Colonial Empire stand together in solidarity, with each other and with the Mother Country.

6. The solidarity of the Portuguese Colonial Empire comprises particularly the obligation of contributing in an adequate manner towards securing the aims of all its members and the integrity and defence of the nation.

7. The State shall not alienate in any manner any part of the colonial territories and rights of Portugal, without prejudice to the rectification of frontiers when approved by the National Assembly.

8. In the colonies a foreign Government may not acquire any land or building for the housing of consular representation, except after authorisation by the National Assembly and in a place the choice of which is accepted by the Minister for the Colony.

9. The following are not permitted:

(1) Concessions of land bordering the sea coast whether inside or outside bays, within a continuous zone of 80 metres beyond the maximum level of high tide;

(2) Concessions of land bordering navigable lakes and rivers open to international navigation, within a continuous zone of 80 metres beyond the normal level of the waters;

(3) Concessions of land within a distance of not less than 100 metres on either side of the area of constructed or projected railway stations;

(4) Other concessions of land which may not be granted in conformity with the laws at present in force or which may be promulgated.

*Sole paragraph.* In exceptional cases, when expedient in the interests of the State:

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<sup>1</sup>English translation from *Political Constitution of the Portuguese Republic*, Colonial Act (with alterations contained in Law No. 1900 of 21 May 1925), Editions of Department of National Propaganda, Lisbon, 1937, pp. 51-63.

- (a) The temporary occupation of plots of land situated within the zones mentioned in (1), (2) and (3) of this article may be permitted, in accordance with the law;
- (b) The said plots may be comprised within the area of inhabited places under the terms of the law, with the express approval of Government after consultation with the departments concerned;
- (c) Concessions may be granted, in conformity with the law, in respect of plots included within the area of inhabited places, the express approval of the Government after consultation with the department concerned being in this case also an indispensable condition.

10. In areas intended for coastal settlements in the colonies or for their natural expansion, concessions or sub-concessions of land shall be subject to the following regulations:

(1) They may not be granted to aliens without the approval of the Council of Ministers;

(2) They may not be granted to any individuals or companies unless for improvements which they have to make to their urban, industrial or commercial establishments.

§ 1. Private transfers of ownership of lands are not conditional upon previous authorisation on the part of the Government. If however, the transfer is contrary to the terms of (1) and (2) it may be cancelled by simple order of the Governors-General or colonial Governors published in the *Boletims Officiais* within six months of the month in which they shall have become acquainted with the fact, without prejudice to cancellation at any time, by ordinary means under the terms of the following paragraph.

§ 2. Rights secured in the State by this and the previous article are imprescriptible.

§ 3. The limits of the areas of coastal settlements and of the areas destined for their natural expansion shall be fixed by measures published in the *Boletim Oficial* of the colony concerned.

11. In future the administration and exploitation of commercial ports in the colonies are reserved to the State. A special law shall regulate the exceptions which are to be allowed in each port in respect of certain establishments or services.

12. The State shall not grant to individual or collective enterprises in any colony:

(1) The exercise of the prerogatives of public administration;

(2) The privilege of establishing or fixing any dues or taxes, even though it be in the name of the State;

(3) The right of possessing lands or mine-prospecting areas with power to grant sub-concessions to other enterprises.

*Sole paragraph.* In colonies where there at present exist concessions of the nature referred to in this article, the following shall be observed:

(a) They may not be prolonged or renewed either wholly or in part;

(b) The State shall exercise its rights of rescission or redemption under the terms of the laws or contracts applicable;

(c) The State shall keep in view the complete administrative unification of the Colony.

13. Concessions granted by the State, even when they are dependent on foreign capital, shall always be subjected to conditions which ensure nationalisation and other advantages to the economic system of the Colony. Special enactments having the same purpose in view shall regulate this matter.

14. In the application of articles 8, 9, 10, 11 and 12 rights acquired before the present date shall be reserved.

## PART II. THE NATIVES

15. The State guarantees the protection and defence of the Natives of the colonies, in accordance with the principles of humanity and sovereignty, the provisions of this part and the international conventions which are at present in force or may come into operation.

The colonial authorities shall prevent and punish in accordance with the law all abuses against the persons and property of the Natives.

16. The State shall establish public institutions and encourage the creation of private institutions, in both cases Portuguese, to uphold the rights of Natives or to render them assistance.

17. The law guarantees to the Natives, in the terms stated therein, the ownership and possession of their lands and crops, and this principle must be respected in all the concessions granted by the State.

18. The labour of Natives in the service of the State or in that of administrative bodies shall be remunerated.

19. The following shall be prohibited :

(1) All systems under which the State undertakes to furnish native labourers to any enterprises working for their own economic development.

(2) All systems under which the Natives in any territorial area are compelled to furnish labour to the said enterprises for any consideration.

20. The State may only compel Natives to labour on public works of general benefit to the community, in occupations the proceeds of which will be enjoyed by them, in execution of judicial decisions of a penal nature or for the fulfilment of fiscal obligations.

21. The system of contracting Native labour shall be based on individual liberty and on the right to a fair wage and assistance, the public authorities intervening only for purposes of supervision.

22. Attention shall be paid in the colonies to the stage of evolution of the Native people. There shall be special statutes regarding Natives which, under the authority of Portuguese public and private law, shall establish for them juridical rules in keeping with their individual domestic and social usages and customs, provided that these are not incompatible with morality and the dictates of humanity.

23. The State shall ensure in all its overseas territories liberty of conscience and the free exercise of the various religions, subject to the restrictions necessitated by rights and interests of the sovereignty of Portugal, the maintenance of public order and consonance with international treaties and conventions.

24. Portuguese Catholic missions overseas, being an instrument of civilisation and national influence, and establishments for the training of staffs for service therein and in the Portuguese Padroado, shall possess juridical personality and shall be protected and assisted by the State as educational institutions.

## PART III. THE POLITICAL AND ADMINISTRATIVE SYSTEM

26. Administrative decentralisation and financial autonomy are guaranteed to the colonies so far as these are compatible with the Constitution, their stage of development and their own resources, without prejudice to the provisions of article 47.

.....

27. The following are within the exclusive competence of the National Assembly, following proposals by the Minister for the Colonies submitted in accordance with article 113 of the Constitution :

- (a) The approval of treaties, conventions or agreements with foreign nations;
- (b) The authorisation of loans or other contracts which necessitate securities or special guarantees;
- (c) A definition of the powers of the Government of the Mother Country and those of the colonial Governments in regard to the area and duration of concessions of land or other concessions which involve exclusive or special privileges.

.....

#### PART IV. ECONOMIC AND FINANCIAL GUARANTEES

34. The Mother Country and the colonies, owing to their moral and political ties, have as the basis of their economic existence a natural community and solidarity which is recognised by law.

35. The economic systems of the colonies shall be established in accordance with the needs of their development, just reciprocity between them and the neighbouring countries and the rights and legitimate requirements of the Mother Country and the Portuguese Colonial Empire.

36. It shall appertain to the Mother Country, without prejudice to the guaranteed decentralisation, to ensure by means of her decisions the requirements of the interests which, under the terms of the foregoing article, must be considered as a whole in the economic systems of the colonies.

39. The movable and immovable property in each Colony which, the limits of its territory, does not belong to others, the property which the Colony may have legally acquired outside of its own territory, the public and private securities which it may at present or in the future possess, the dividends, annuities or interest and shares in profits or of any other nature which may be due to it shall be considered to be the property of the Colony.

.....

44. The Mother Country shall afford financial assistance to the colonies on provision of the necessary guarantees.

45. The colonies may not contract loans in foreign countries.

*Sole paragraph.* When it is necessary to have recourse to foreign markets to obtain capital for the Government of a Colony, the financial operation shall be concluded on account of the Mother Country exclusively, the Colony not assuming any responsibility towards the said markets, but assuming it fully towards the Mother Country, to which the Colony shall give the necessary guarantees.

47. The financial autonomy of the colonies shall be subject to such occasional restrictions as may be indispensable should a serious situation develop in regard to their finances or to the dangers accruing to the Mother Country as the result of same.

# Organic Charter of the Portuguese Colonial Empire<sup>1</sup>

15 November 1933

## CHAPTER VII. ECONOMIC AND SOCIAL ORDER IN THE COLONIES

### *Division I. Economic System of the Colonies*

212. The Minister of the Colonies and the colonial Governors shall direct, co-ordinate and regulate the economic and social life of the Colonies with the following purposes in view:

- (1) Predominance of Portuguese personnel and capital in undertakings and activities of all kinds;
- (2) The creation and maintenance of the conditions requisite for the development of the Native peoples;
- (3) The raising of the moral, intellectual and economic level of the Natives;
- (4) The progressive and methodical development of the natural resources and possibilities of the territories of the Empire;
- (5) The attainment of social justice in conformity with economic and political conditions.

*Sole sub-section.* The authorities mentioned in this section shall always have in view in their every action the aims specified in article 3 of the Constitution and the methods mentioned in division VIII thereof.

213. *Substantially identical with article 35 of the Colonial Act, p. 689.*

214. *Substantially identical with article 36 of the Colonial Act, p. 689.*

215. The economic organisation of the colonies shall aim at the creation of bodies to be incorporated in the general economic organisation of the Nation; it shall be such as to obtain the maximum of socially useful production and wealth and to establish a collective life ensuring a higher degree of power for the State and of justice for all citizens.

216. *Substantially identical with article 11 of the Colonial Act, p. 687.*

### *Division II. Concessions in the Colonies*

217. *Substantially identical with article 13 of the Colonial Act, p. 687.*

218. All undertakings which aim at the development and exploitation of anything belonging to the public domain of the State in the colonies shall be deemed to be undertakings carried on in the public interest and *ipso facto* subject to a special system of administration, direction, participation or supervision on the part of the State, exercised through the Minister of the Colonies or the colonial Governors, in accordance with the requirements of public safety, national defence and economic and social relations.

219. *Substantially identical with article 12 of the Colonial Act, p. 687.*

220. No parcel of colonial territory may be alienated to the Government or any other political authority of a foreign country.

*Sole sub-section.* Land or buildings required for the installation of consular representative authorities shall be an exception to the above rule, provided that the purchase has been authorised by the National Assembly and the said authorities

<sup>1</sup> English translation from French text in *British and Foreign State Papers*, Vol. 136, 1933 (published 1938), pp. 102, 162-168; for Portuguese text, see *Diário do Governo*, 15 Nov. 1933, No. 261, part I, p. 1891; *erratum*: 7 Dec. 1933, No. 279, part I, p. 2115.

continue to occupy premises the choice of which has been approved by the Minister of the Colonies, and provided further that equal rights have been granted to the Portuguese Government in the foreign country concerned.

221. *Substantially identical with article 9 of the Colonial Act, p. 686.*

222. *Substantially identical with article 10 of the Colonial Act, p. 687, except that paragraph 1 is as follows:*

§ 1. In the African Colonies and in Timor the prohibitions laid down in this section shall cover all private conveyances contrary to the purposes of this section. A deed of conveyance covered by the above provision shall not be drawn up without the previous permission of the Council of Ministers in a case covered by No. 1 and of the Governor of the Colony in a case covered by No. 2.

223. Property or rights of the States which involve the prestige of the State or higher national necessities shall never be removed from the public domain in the Colonies.

224. The scales of charges for public services operated under a concession shall be subject to regulation and supervision by the Colonial Governments and the Minister of the Colonies; they shall not be put into operation without the approval of these authorities given after hearing the competent bodies.

225. Concessions for the installation of new industries in the Colonies shall not be definitive until they have been confirmed by the Minister of the Colonies.

*Sole sub-section.* A special decree shall be issued to lay down the conditions for the installation of new industries in the Colonies.

### *Division III. Economic Relations between the Mother Country and the Colonies, and between the Various Colonies*

226. The economic life of the Mother Country and the Colonies shall be based on a natural community of interests and solidarity recognised and protected by law which the Governments must endeavour to develop in all circumstances.

227. Merchandise produced in the Mother Country or within the Empire shall be entitled, on importation into a Colony, to a reduction of not less than 50 per cent. reckoned on the duties of the minimum tariff in force.

*Sole sub-section.* Modifications of the reduction provided for in this section shall always be subject to approval by the Minister of the Colonies.

228. Merchandise produced in a Colony, on importation into the Mother Country or another Colony, shall be entitled to a reduction of not less than 50 per cent. This reduction shall always be calculated with reference to the lowest duties applicable to similar merchandise of other origin.

229. Shipping between the ports of a Portuguese Colony or Colonies shall be reserved to Portuguese vessels, which shall provide a regular service.

(1) An exception shall be allowed in the case of colonial ports which, under international treaties or agreements, are subject to arrangements differing from those provided for in this section.

(2) The Minister of the Colonies shall have power to authorise foreign shipping to carry passengers within the zones reserved in the Colonies for Portuguese vessels.

(3) The transportation of letters, books, reviews or newspapers on foreign vessels shall always be permitted.

230. An Overseas Tariffs Council shall be set up in the Ministry of the Colonies for the purpose of examining and giving its opinion with respect to:

- (a) The general reform of overseas customs tariffs, with a view to the development of the colonial economic system and its retention in Portuguese hands;

- (b) The requisite alterations to be made in customs duties in order to ensure the progressive incorporation of the economic life of the various Colonies in a general organised system and in the economic system of the Mother Country;
- (c) The customs protection of the Portuguese colonial economic system with respect to foreign countries and the application to Portuguese Colonies of all commercial treaties, agreements, conventions or arrangements entered into with foreign countries;
- (d) The progressive conversion of *ad valorem* duties into specific duties.

*Sole sub-section.* A special order shall be issued governing the constitution and operation of the Overseas Tariffs Council.

#### CHAPTER VIII. NATIVES

231. *Substantially identical with article 15 of the Colonial Act, p. 688.*

232. It shall be the duty of all the colonial administrative authorities to ensure to Natives the exercise of their rights, respect for their persons and property and enjoyment of the exemptions and benefits granted them by law, to defend them against undue exactions, violence or vexatious proceedings of which they may be the victims and to enforce payment of the wages due to them.

233. All the authorities and all settlers shall protect the Natives. It shall be their duty to ensure the preservation and development of the various peoples and contribute in every case to the improvement of the conditions under which they live; they shall be bound to support and encourage measures for the civilisation of the Natives and for the promotion of their affection for Portugal as their Mother Country.

234. Special attention shall be paid in the administrative division of the Colonies to the density of the Native population, its wealth, commercial activities and agricultural development.

235. In every Colony the Native population shall be organised for purposes of relief, public administration and military defence, and wherever possible the services of the traditional Native authorities shall be utilised in accordance with the law.

236. A general register or census of the Native peoples shall be organised and always kept in due form.

237. The authorities and settlers shall actively promote the diffusion of the Portuguese language among the Natives.

238. The State shall set up public institutions and promote the establishment of private institutions, both being Portuguese, to protect the rights of Natives or for their relief and education.

239. The ownership and possession of their lands and crops shall be guaranteed to the Natives by law under the terms and conditions set forth therein, and this principle shall be observed in all concessions granted by the State and the administration thereof shall be strictly supervised.

240. The State shall not impose forced or compulsory labour of any kind for private purposes on the Natives in its Colonies, nor permit the imposition thereof, but shall not hinder them from procuring the means of subsistence by work.

241. *Substantially identical with article 20 of the Colonial Act, p. 688.*

242-243. *Substantially identical with articles 18 and 19 of the Colonial Act, p. 688.*

244. The system of contracts of employment of Natives shall be based on the liberty of the individual and the right to fair wages and relief; the public authorities shall intervene solely for purposes of supervision.

*Sole sub-section.* Natives in the Portuguese colonies shall be ensured liberty to choose the occupation which they prefer, whether they engage therein for themselves or for another, on their own land or on land intended for that purpose in the



territories of the Empire. Nevertheless, the State shall reserve the right of guardianship over them and endeavour to guide them to methods of work for themselves which will improve their individual and social situation.

245. A system of Native labour inspection directly subordinate to the Ministry of the Colonies shall be set up.

246. Attention shall be paid in the Colonies to the stage of evolution of the various Native populations; special Native codes shall be drawn up, which shall lay down for them (subject to the influence of Portuguese public and private law) legal systems in conformity with their various domestic and social customs and usages (provided that the said customs and usages are not incompatible with morality, the dictates of humanity or the free exercise of the sovereignty of Portugal) and efforts shall be made to bring about their gradual improvement.

247. The State shall ensure liberty of conscience and freedom of religious practice within its territories overseas, subject to the restrictions required by the rights and interests of the sovereignty of Portugal, the principles of humanity and the maintenance of public order, and in conformity with international treaties and conventions.

248. Religious missions overseas, which are the instruments of civilisation and national influence, and the establishments for the training of the staff of the said missions and of the Portuguese ecclesiastical authorities, shall be corporate bodies and shall be protected and aided by the State as educational institutions.

*Sole sub-section.* Special appropriations shall be inserted in the estimates of the Colonies for the service of the said missions, with a view to providing them with the means necessary for their work among the Natives.

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## ST. HELENA

### The St. Helena Order in Council, 1939<sup>1</sup>

11. *Substantially identical with Cyprus Letters Patent, paragraph 16, p. 43.*

### Letters Patent Constituting the Office of Governor and Commander-in-Chief<sup>2</sup>

*11 June 1890, as Amended 31 December 1903*

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### Royal Instructions to the Governor and Commander-in-Chief

*11 June 1890, as Amended 5 June 1929*

13. *Similar to Bahamas Royal Instructions, paragraph 21, p. 289.*  
 17. *Substantially identical with Bahamas Royal Instructions, paragraph 27, p. 290.*  
 20. *Substantially identical with Bahamas Royal Instructions, paragraph 30, p. 290.*

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<sup>1</sup> Text in *Statutory Rules and Orders*, revised to 31 Dec. 1903, Vol. XI, p. 12.

<sup>2</sup> Text in *ibid.*, p. 16, and *idem*, 1906, p. 883.

## SEYCHELLES

### Letters Patent Constituting the Office of Governor and Commander-in-Chief<sup>1</sup>

*31 August 1903*

11. *Substantially identical with Cyprus Letters Patent, paragraph 16, p. 43.*

### Royal Instructions to the Governor and Commander-in-Chief *31 August 1903, as Amended 3 April 1911 and 31 August 1931*

22. *Substantially identical with Bahamas Royal Instructions, paragraph 21, p. 289.*

23. *Substantially identical with Bahamas Royal Instructions, paragraph 22, p. 290.*

28. *Substantially identical with Bahamas Royal Instructions, paragraph 27, p. 290.*

32. *Substantially identical with Bahamas Royal Instructions, paragraph 30, p. 290.*

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## SOUTH AFRICA

### South Africa Act 1909, as Amended to 1937<sup>2</sup>

*9 Edw. VII, c.9 — 20 September 1909*

1. The people of the Union acknowledge the sovereignty and guidance of Almighty God.

59. Parliament shall have full power to make laws for the peace, order, and good government of the Union.

85. Subject to the provisions of this Act and the assent of the Governor-General in Council as hereinafter provided, the Provincial Council may make ordinances in relation to matters coming within the following classes of subjects (that is to say) :

(i) Direct taxation within the Province in order to raise a revenue for Provincial purposes.

(ii) The borrowing of money on the sole credit of the Province with the consent of the Governor-General in Council and in accordance with regulations to be framed by Parliament.

(iii) Education, other than higher education, for a period of 5 years and thereafter until Parliament otherwise provides.

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<sup>1</sup> Text in *Statutory Rules and Orders*, revised to 31 Dec. 1903, Vol. XI, p. 1.

<sup>2</sup> Text from *Constitutions of All Countries*, Vol. I, pp. 140-178. The standard commentary on the Act is W. P. KENNEDY and H. J. SCHLOSBERG: *The Law and Custom of the South African Constitution*.

(iv) Agriculture to the extent and subject to the conditions to be defined by Parliament.

(v) The establishment, maintenance, and management of hospitals and charitable institutions.

(vi) Municipal institutions, divisional councils, and other local institutions having authority and functions in any area in respect of the local Government of, or the preservation of public health in, that area, including any such body as is referred to in section 7 of "The Public Health Act, 1919" (Act No. 36 of 1919).

(vii) Local works and undertakings within the Province, other than railways and harbours and other than such works as extend beyond the borders of the Province, and subject to the power of Parliament to declare any work a national work and to provide for its construction by arrangement with the Provincial Council or otherwise.

(viii) Roads, outspans, ponts, and bridges, other than bridges connecting two Provinces.

(ix) Markets and pounds.

(x) Fish and game preservation.

(xi) The imposition of punishment by fine, penalty, or imprisonment for enforcing any law or any ordinance of the Province made in relation to any matter coming within any of the classes of subjects enumerated in this section.

(xii) Generally all matters which, in the opinion of the Governor-General in Council, are of a merely local or private nature in the Province.

(xiii) All other subjects in respect of which Parliament shall by any law delegate the power of making ordinances to the Provincial Council.

86. Any ordinance made by a Provincial Council shall have effect in and for the Province as long and as far only as it is not repugnant to any Act of Parliament.

87. A Provincial Council may recommend to Parliament the passing of any law relating to any matter in respect of which such Council is not competent to make ordinances.

122. Crown lands, public works, and all property throughout the Union, movable or immovable, and all rights of whatever description belonging to the several Colonies at the establishment of the Union, shall vest in the Governor-General in Council subject to any debt or liability specially charged thereon.

123. All rights in and to mines and minerals, and all rights in connection with the searching for, working for, or disposing of, minerals or precious stones, which at the establishment of the Union are vested in the Government of any of the Colonies, shall on such establishment vest in the Governor-General in Council.

125. All ports, harbours, and railways belonging to the several Colonies at the establishment of the Union shall from the date thereof vest in the Governor-General in Council. No railway for the conveyance of public traffic, and no port, harbour, or similar work, shall be constructed without the sanction of Parliament.

126. Subject to the authority of the Governor-General in Council, the control and management of the railways, ports, and harbours of the Union shall be exercised through a Board consisting of not more than three commissioners, who shall be appointed by the Governor-General in Council, and a Minister of State, who shall be chairman. Each commissioner shall hold office for a period of 5 years, but may be re-appointed. He shall not be removed before the expiration of his period of appointment, except by the Governor-General in Council for cause assigned, which shall be communicated by message to both Houses of Parliament, within one week after the removal, if Parliament be then sitting, or, if Parliament be not sitting, then within one week after the commencement of the next ensuing session. The salaries of the commissioners shall be fixed by Parliament and shall not be reduced during their respective terms of office.

127. The railways, ports, and harbours of the Union shall be administered on business principles, due regard being had to agricultural and industrial development within the Union and promotion, by means of cheap transport, of the settle-

ment of an agricultural and industrial population in the inland portions of all Provinces of the Union. So far as may be, the total earnings shall be not more than are sufficient to meet the necessary outlays for working, maintenance, betterment, depreciation, and the payment of interest due on capital not being capital contributed out of railway or harbour revenue, and not including any sums payable out of the Consolidated Revenue Fund in accordance with the provisions of sections 130 and 131. The amount of interest due on such capital invested shall be paid over from the Railway and Harbour Fund into the Consolidated Revenue Fund. The Governor-General in Council shall give effect to the provisions of this section as soon as and at such time as the necessary administrative and financial arrangements can be made, but in any case shall give full effect to them before the expiration of 4 years from the establishment of the Union. During such period, if the revenues accruing to the Consolidated Revenue Fund are insufficient to provide for the general service of the Union, and if the earnings accruing to the Railway and Harbour Fund are in excess of the outlays specified herein, Parliament may by law appropriate such excess or any part thereof towards the general expenditure of the Union, and all sums so appropriated shall be paid over to the Consolidated Revenue Fund.

130. Every proposal for the construction of any port or harbour works or of any line of railway, before being submitted to Parliament, shall be considered by the Board, which shall report thereon, and shall advise whether the proposed works or line of railway should or should not be constructed. If any such works or line shall be constructed contrary to the advice of the Board, and if the Board is of opinion that the revenue derived from the operation of such works or line will be insufficient to meet the costs of working and maintenance, and of interest on the capital invested therein, it shall frame an estimate of the annual loss which, in its opinion will result from such operation. Such estimate shall be examined by the Controller and Auditor-General, and when approved by him the amount thereof shall be paid over annually from the Consolidated Revenue Fund to the Railway and Harbour Fund; provided that if in any year the actual loss incurred, as calculated by the Board and certified by the Controller and Auditor-General, is less than the estimate framed by the Board, the amount paid over in respect of that year shall be reduced accordingly so as not to exceed the actual loss incurred. In calculating the loss arising from the operation of any such work or line, the Board shall have regard to the value of any contributions of traffic to other parts of the system which may be due to the operation of such work or line.

136. There shall be free trade throughout the Union, but until Parliament otherwise provides the duties of custom and of excise leviable under the laws existing in any of the Colonies at the establishment of the Union shall remain in force.

151. The King, with the advice of the Privy Council, may, on addresses from the Houses of Parliament of the Union, transfer to the Union the government of any territories, other than the territories administered by the British South Africa Company, belonging to or under the protection of His Majesty, and inhabited wholly or in part by Natives, and upon such transfer the Governor-General in Council may undertake the government of such territory upon the terms and conditions embodied in the Schedule to this Act.

#### SCHEDULE

14. It shall not be lawful to alienate any land in Basutoland or any land forming part of the Native reserves in the Bechuanaland Protectorate and Swaziland from the Native tribes inhabiting those territories.

15. The sale of intoxicating liquor to Natives shall be prohibited in the territories, and no provision giving facilities for introducing, obtaining, or possessing

such liquor in any part of the territories less stringent than those existing at the time of transfer shall be allowed.

16. The custom, where it exists, of holding pitsos or other recognised forms of Native assembly shall be maintained in the territories.

17. No differential duties or imposts on the produce of the territories shall be levied. The laws of the Union relating to customs and excise shall be made to apply to the territories.

18. There shall be free intercourse for the inhabitants of the territories with the rest of South Africa subject to the laws, including the pass laws, of the Union.

19. Subject to the provisions of this Schedule, all revenues derived from any territory shall be expended for and on behalf of such territory; provided that the Governor-General in Council may make special provision for the appropriation of a portion of such revenue as a contribution towards the cost of defence and other services performed by the Union for the benefit of the whole of South Africa, so, however, that that contribution shall not bear a higher proportion to the total cost of such services than that which the amount payable under paragraph 12 of this Schedule from the Treasury of the Union towards the cost of the administration of the territory bears to the total customs revenue of the Union on the average of the 3 years immediately preceding the year for which the contribution is made.

## Letters Patent relating to the Office of Governor-General<sup>1</sup>

*15 February 1937*

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## Royal Instructions to the Governor-General<sup>2</sup>

*15 February 1937*

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## South West Africa

### Mandate for South West Africa<sup>3</sup>

*17 December 1920*

2. (Second paragraph), 3, 4, 5 and 6. *Identical with the corresponding provisions of the Mandate for the Islands of the Northern Pacific, p. 621.*

<sup>1</sup> Text in *Constitutions of All Countries*, Vol. I, pp. 183-186.

<sup>2</sup> *Ibid.*, pp. 186-188.

<sup>3</sup> Text from HUDSON: *International Legislation*, Vol. I, 1919-1921, pp. 57-60.

## Treaty of Peace and South West Africa Mandate Act, 1919<sup>1</sup>

### LAND SETTLEMENT, ALIENATION OF STATE RIGHTS OR NATIVE RESERVES

4. (1) It shall be lawful for the Governor-General by proclamation to apply to the said territory, with such modifications as he may deem necessary having regard to the conditions obtaining therein, the provisions of all or any of the following laws to wit: the Land Settlement Act 1912, the Land Settlement Act Amendment Act 1917, the Crown Land Disposal Ordinance 1903 of the Transvaal, and the Crown Land Disposal Amendment Ordinance 1906 of the Transvaal.

(2) Save for the provisions of sub-section (1) of this section, no grant of any title, right or interest in State land or minerals within the said territory or of any right or interest in or over the territorial waters thereof shall be made and no trading or other concessions shall be granted without the authority of Parliament.

(3) No land within the said territory now or hereafter set apart as a reserve for Natives or coloured persons shall be alienated save under the authority of Parliament: provided that nothing in this section contained shall be deemed to prohibit the Governor-General, in respect of land contained in any such reserve, to grant individual title to any person lawfully occupying and entitled to such land.

## South West Africa Constitution Act, 1925<sup>2</sup>

### PREAMBLE

.....  
And Whereas it is expedient that further authority should be conferred upon the Government of the Union in respect of giving effect to the said Mandate, in that the Government of the Union is, under the said Mandate, to promote to the utmost the material and moral well-being and the social progress of the inhabitants of the territory:

And Whereas, to that intent, it is expedient that the European inhabitants of the territory should be admitted to representation in the administration of the territory and in a legislative body to make laws therefor, subject always to the provisions of the said Mandate and to the provisions, exceptions, reservations and restrictions contained in this Act:

Be it enacted by the King's Most Excellent Majesty, the Senate and the House of Assembly of the Union of South Africa, as follows:

### PROCEDURE IN THE ASSEMBLY

26. Except with the consent of the Governor-General previously obtained on any particular occasion and communicated to the Assembly by message from the Administrator, it shall not be competent for the Assembly to make an ordinance in relation to any subject falling within the following classes of matters, *i.e.*, to say:

- (a) Native affairs or any matters specially affecting Natives, including the imposition of taxation upon the persons, land, habitations or earnings of

<sup>1</sup> Text from *Statutes of the Union of South Africa*, 1919, pp. 492-494, Act No. 49 of 1919.

<sup>2</sup> *Idem*, 1925, pp. 734-801, Act No. 42 of 1925.

Natives. Whenever any ordinance of the Assembly imposes taxation upon persons, lands, habitations, or incomes or earnings generally, Natives and their lands, habitations and earnings shall be exempt from its provisions;

- (b) Mines, minerals, mineral oils and precious stones; or the moneys derivable therefrom or payable to the Administration in respect of licences for prospecting or winning the same or as share of the produce thereof or any taxation in connection therewith;
- (c) The acquisition, construction, management, regulation, control and working of railways and harbours in the territory; and the organisation, discipline and conditions of employment of and the payment of pensions, retiring allowances and financial benefits to persons in the employment of the railways and harbours administration;
- (f) The administration, management and working of the postal, telegraph and telephone services;
- (i) The entry of immigrants into the territory or of other persons;
- (j) Tariffs of customs and excise duties and the control and management of customs and excise;
- (k) Currency and banking and the control of banking institutions.

27. (1) Except with the consent of the Governor-General previously obtained on any particular occasion, and communicated to the Assembly by message from the Administrator, the Assembly shall not, until the expiration of a period of at least three years from the date of the first sitting of the first session of the Assembly, be competent to make ordinances in relation to any of the following subject matters:

- (b) Civil aviation;
- (c) Primary or secondary education in schools supported or aided from the revenues of the territory;
- (d) The establishment, management or control of any land or agricultural bank in the territory;
- (e) The allotment, sale, lease or disposal of Government lands in the territory.

(2) At any time after the expiry of the said period of three years, if power has not been so conferred by the Governor-General upon the Assembly to make ordinances in relation to any particular subject matter specified in sub-section (1), then the Governor-General may, on a recommendation made by the Assembly and embodied in a resolution for which it is certified by the chairman thereof that not less than two-thirds of the members thereof voted, declare by proclamation in the *Gazette* and in the *Official Gazette* of the territory, the full competency of the Assembly to make ordinances in respect of that subject matter.

(3) Save as is specially provided in this section the provisions thereof shall remain in operation after the said period of three years.

41. In considering any matter relating to the acquisition, construction, management, regulation, control and working of the railways and harbours in the territory, the Railways and Harbours Board of the Union shall consult, in such manner as in the circumstances it may deem most expedient, the Administrator or any other person designated by him in any particular case.

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## SOUTHERN RHODESIA

### Letters Patent Providing for the Constitution of Responsible Government<sup>1</sup>

*1 September 1923, as Amended to 22 October 1937*

26. (1) It shall be lawful for Us and Our successors, by and with the advice and consent of the Legislature, subject to the provisions of these Our Letters Patent, to make all Laws, to be entitled "Acts", which shall be required for the peace, order and good government of the Colony.

(2) A law passed by the Legislature may repeal or alter any of the provisions of these Our Letters Patent, save those contained in this section, and those contained in section 28 (relating to the reservation of bills), sections 39 to 47 (relating to Native Administration), and section 55 (relating to the salary of the Governor), and may likewise repeal or alter any of the provisions of any Order in Our Privy Council extending to Southern Rhodesia other than provisions affecting any matter mentioned in this sub-section.

. . . . .

28. Unless he shall have previously obtained our instructions upon such law through a Secretary of State, or unless such law shall contain a clause suspending the operation thereof until the signification in the Colony of our pleasure thereupon, the Governor shall reserve:

- (a) Any law, save in respect of the supply of arms, ammunition, or liquor to Natives, whereby Natives may be subjected or made liable to any conditions, disabilities or restrictions to which persons of European descent are not also subjected or made liable.
- (b) Any law which may repeal, alter or amend, or is in any way repugnant to or inconsistent with such provisions of these our Letters Patent, as may under these our Letters Patent be repealed or altered by the Legislature.
- (c) Any law constituting the Legislative Council passed in pursuance of section 2 of these our Letters Patent.
- (d) Any law which may repeal, alter or amend, or is in any way repugnant to or inconsistent with "The Land Apportionment Act, 1930", of the Legislature of the Colony.

40. No conditions, disabilities or restrictions which do not equally apply to persons of European descent shall, without the previous consent of the Secretary of State, be imposed upon Natives (save in respect of the supply of arms, ammunition and liquor) by any proclamation, regulation or other instrument issued under the provisions of any law, unless such conditions, disabilities or restrictions shall have been explicitly prescribed, defined and limited in such law.

41. (1) There shall be established a Board of Trustees, which shall consist of a chairman, who shall be nominated and appointed by the Secretary of State, and two members, one of whom shall be the person for the time being holding the office of Chief Justice of the Colony and the other shall be the person for the time being holding the office of Chief Native Commissioner in the Colony.

. . . . .

42. (1) The lands known as "Native Reserves", which are fully described in

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<sup>1</sup> Text from *Constitutions of All Countries*, Vol. I, pp. 344-367.



the Schedule to these our Letters Patent, are hereby vested in the Board of Trustees, and, subject to the provisions of this section, are set apart for the sole and exclusive use and occupation of the indigenous Native inhabitants of the Colony.

(2) Save in the exercise of any right which has been heretofore acquired in terms of the mining laws of the Colony, no person other than indigenous Native inhabitants of the Colony shall occupy any portion of a Native reserve except in accordance with such regulations as may be framed by the Governor in Council with the approval of the Secretary of State.

(3) The power reserved to the High Commissioner in sections 105 and 106 of "The Water Act, 1927," and sections 16 and 18 of "The Native Reserves Forest Produce Act, 1929," of the Legislature of the Colony shall remain of full force and effect and shall be deemed to be transferred to and vested in the Board of Trustees.

(4) The Governor in Council may make regulations, which shall be subject to the approval of the Secretary of State, for the control of all revenue derived from the land or other natural resources of the Native reserves and for its administration in the interests of the Native inhabitants of such reserves.

43. (1) Save in any special case, and then only with the permission in writing of the Secretary of State, and subject to such conditions as he may prescribe, which shall include adequate compensation in land, no Native reserve or any portion thereof shall be alienated except subject to the provisions of this section.

(2) The Government of the Colony shall retain the mineral rights in the Native reserves. If the Government should require any such land for the purpose of mineral development or as sites of townships or for railways or other public works, the Governor in Council may upon good and sufficient cause shown, with the approval of the Board of Trustees, order the Natives to remove from such land or any portion thereof and shall assign to them just and liberal compensation in land elsewhere situate in as convenient a position as possible, sufficient and suitable for their agricultural and pastoral requirements, containing a fair and equitable proportion of springs or permanent water and, as far as possible, equally suitable for their requirements in all respects as the land from which they are ordered to remove:

Provided that Natives shall not be removed from such land for the purpose of creating sites of townships unless the Board of Trustees is satisfied that such sites are required for the development of important mineral discoveries.

(3) Any land which is released from a Native reserve in terms of sub-section (2) of this section shall forthwith vest in the Governor, together with any revenues accruing therefrom, for the purposes of the public service of the Colony, and any land which is assigned to the Natives as compensation, whether under sub-section (1) or sub-section (2) of this section, shall forthwith vest in the Board of Trustees and become part of the Native reserves.

44. It shall be lawful for the Governor in Council, with the consent of the Board of Trustees, to make such adjustments of the boundaries of Native reserves as are desirable for the purpose of:

- (a) More clearly demarcating such boundaries by reference to natural topographical features or,
  - (b) Better administration,
- but in the case of any such adjustment the area of no Native reserve shall be materially affected or diminished thereby.

45. (1) Save in the exercise of any right given or any duty imposed by any law of the Colony or in the execution of the process of a competent court, no person shall remove any Natives from any kraal or from any land assigned to them for occupation except after full enquiry by and by order of the Governor in Council.

(2) If any person contravenes the provisions of the preceding sub-section, he

shall, in addition to any other proceedings to which he may be liable, be guilty of an offence, and on conviction before the High Court of the Colony shall be liable to imprisonment, with or without hard labour, for any period not exceeding 2 years, or to a fine not exceeding £100, or to both such imprisonment and such fine.

46. No contract for encumbering or alienating land, which is the property of a Native and is situated in the European area as defined in "The Land Apportionment Act, 1930", of the Legislature of the Colony, shall be valid unless the contract is made in the presence of a magistrate, is attested by him and bears a certificate signed by him stating that the consideration for the contract is fair and reasonable and that he has satisfied himself that the Native understands the transaction.

### Letters Patent Constituting the Office of Governor<sup>1</sup>

*1 September 1923, as Amended 30 August 1926*

6. The Governor may, in Our name and on Our behalf, make and execute under the Public Seal grants and dispositions of any lands within the Colony which may be lawfully granted or disposed of by Us.

### Royal Instructions to the Governor<sup>2</sup>

*1 September 1923, as Amended 30 August 1926 and 25 March 1937*

VII. The Governor shall not assent in Our name to any law of any of the following classes:

(1) Any law whereby any grant of land or money or other donation or gratuity may be made to himself;

(2) Any law affecting the currency of the Colony;

(3) Any law the provisions of which shall appear inconsistent with obligations imposed on Us by Treaty;

(4) Any law of an extraordinary nature and importance whereby Our prerogative or the rights and property of Our subjects not residing in the Colony, or the trade and shipping of the United Kingdom and its dependencies, may be prejudiced;

(5) Any law containing provisions to which Our assent has been once refused, or which have been disallowed by Us; unless he shall have previously obtained Our instructions upon such law through one of Our Principal Secretaries of State, or unless such law shall contain a clause suspending the operation thereof until the signification in the Colony of Our pleasure thereupon.

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<sup>1</sup> *The Statute Law of Southern Rhodesia enforced on the 1st day of January 1939*, revised edition, Vol. I, pp. 71-72.

<sup>2</sup> *Ibid.*, pp. 75-77.

## SOUDAN

### Agreement between Great Britain and Egypt relative to the Future Administration of the Soudan<sup>1</sup>

*Cairo, 19 January 1899*

IV. Laws, as also Orders and Regulations, with the full force of law, for the good government of the Soudan, and for regulating the holding, disposal, and devolution of property of every kind therein situate, may from time to time be made, altered, or abrogated by Proclamation of the Governor-General. Such Laws, Orders, and Regulations may apply to the whole or any named part of the Soudan, and may, either explicitly or by necessary implication alter or abrogate any existing Law or Regulation.

All such Proclamations shall be forthwith notified to Her Britannic Majesty's Agent and Consul-General in Cairo, and to the President of the Council of Ministers of His Highness the Khedive.

VI. In the definition by Proclamation of the conditions under which Europeans, of whatever nationality, shall be at liberty to trade with or reside in the Soudan, or to hold property within its limits, no special privileges shall be accorded to the subjects of any one or more Power.

VII. Import duties on entering the Soudan shall not be payable on goods coming from Egyptian territory. Such duties may, however, be levied on goods coming from elsewhere than Egyptian territory; but in the case of goods entering the Soudan at Suakin, or any other port on the Red Sea littoral, they shall not exceed the corresponding duties for the time being leviable on goods entering Egypt from abroad. Duties may be levied on goods leaving the Soudan, at such rates as may from time to time be prescribed by Proclamation.

XI. The importation of slaves into the Soudan, as also their exportation, is absolutely prohibited. Provision shall be made by Proclamation for the enforcement of this Regulation.

XII. It is agreed between the two Governments that special attention shall be paid to the enforcement of the Brussels Act of the 2nd July, 1890, in respect of the import, sale, and manufacture of fire arms and their munitions, and distilled or spirituous liquors.

## SPANISH COLONIES

### Gulf of Guinea

#### Decree concerning the Government and Administration<sup>2</sup>

*22 July 1931*

2. . . . .

(*The Governor-General*) shall submit annually a report on the administrative, political, economic and social condition of the Colony.

. . . . .

<sup>1</sup> Text from HERTSLET'S *Commercial Treaties*, Vol. XXI, pp. 356-358.

<sup>2</sup> Spanish text in *Repertorio de Legislación Española, Revista de los Tribunales*, Vol. 54, 1931, pp. 237-239.

4. . . . .

The Government will enact provisions to facilitate the admission to all branches of the administration of Native personnel fulfilling the required conditions.

7. The rights and duties of Spaniards and foreigners in the Spanish territories of the Gulf of Guinea shall be regulated by the Constitution of the Spanish Republic and other complementary laws, subject to the adaptations adopted by the Government on the proposal of the Governor.

Special arrangements will apply to public order, the rights of assembly and association and the press.

There shall be freedom of conscience and of worship.

Missions shall require the authorisation of the Government which shall be granted only to Spaniards.

Schoolmasters must also be Spaniards.

9. There shall be established under the direction of the Governor-General and with the co-operation of the authorities organisms for the protection of the Natives dedicated to the protection of their culture, health and instruction, and especially their working conditions.

12. The following shall be the object of special regulation :

Education with a view to securing the greatest possible diffusion of the Spanish language ;

Health, special attention being given to the prophylaxis of endemic tropical diseases ;

Concessions, supplies, and property, those of the Natives being respected in accordance with the laws, usages and customs ;

The fixing of the rights and obligations of the administrative personnel of the Colony.

13. On the basis of the study of the produce of the Colony and the competition of similar foreign produce in Spain there shall be adopted an economic policy which tends to increase the receipts of the Colony, thus reducing progressively the subsidy of the metropolis until budgetary equilibrium is reached in the Colony.

### **Ifni, Rio di Oro and Spanish Sahara**

Decree concerning the Political Administrative and Military  
Direction of Ifni, Rio di Oro and Spanish Sahara<sup>1</sup>

*29 August 1934*

. . . . .

### **TUNIS**

Fundamental Pact concerning the General Bases of Conduct and  
Legislation to which the Bey Undertakes to Conform<sup>2</sup>

*10 September 1857*

1. Complete respect for their persons, goods and honour shall be ensured

<sup>1</sup> Martinez ALCUBILLA: *Diccionario de la Administración Española, Apéndice, 1934*, pp. 832-833.

<sup>2</sup> English translation from French text in *Code de la Tunisie*, Vol. II, p. 737.

to all our subjects and all the inhabitants of our States whatever their religion, nationality or race, except in cases provided for by the law which shall be dealt with by the tribunals.

2. All our subjects shall be subject to the taxes now existing or which may be created in the future in proportion to their means and whatever their position may be.

3. Moslems and the other inhabitants of the country shall be equal before the law.

4. Our Jewish subjects shall not be subject to any pressure to change their religion and shall not be interfered with in practising it. Their synagogues shall be respected and protected from insult.

8. All our subjects, Moslems and others, shall be equally subject to the regulations and customs in force in the country; none of them shall enjoy any privilege over any others in this respect.

9. There shall be freedom of commerce for all and without any privilege for anyone. The Government shall not engage in any kind of commerce and shall not prevent anyone from engaging therein.

10. Foreigners who wish to establish themselves in our States may engage in all industries and trades on condition that they submit to the regulations laid down or which may be laid down later for the inhabitants of the country. In this respect no-one shall enjoy any privileges over anyone else.

They shall enjoy this freedom after we have agreed with their Government regarding the method of application which shall be explained and developed.

11. Foreigners belonging to different Governments who wish to establish themselves in our States may buy property of all kinds, such as houses, gardens and lands, on the same footing as inhabitants of the country, on condition that they will be subject to the regulations which exist or may be laid down, without being entitled to withdraw therefrom.

## Decree on the Political Organisation of the Regency<sup>1</sup>

26 April 1861

### CHAPTER XII. TUNISIAN SUBJECTS

86. All Tunisian subjects, to whatever religion they may belong, have the right to absolute respect for their persons, property and honour, in accordance with the provisions of article 1 of the Fundamental Pact.

88. All Tunisian subjects, to whatever religion they may belong, are equal before the law the provisions of which are applicable to all without distinction, without regard to rank or means.

89. They have the free disposal of their persons and property and cannot be obliged to do anything against their will, except military service which is governed by law.

No-one may be expropriated except for reasons of public utility and subject to the payment of an indemnity.

97. All our subjects, to whatever religion they may belong, have the right to engage in any industry they may please and to use to this end whatever engines and machines they may consider necessary, even though this may involve disadvantages for those wishing to continue to use the old processes.

No factory may be established in the capital or in any other city or in the environments of any city without the authorisation of the chief of the municipality, who shall take steps to see that the factory is so located as not to cause any injury to the public or to private individuals.

<sup>1</sup> English translation from French text in *ibid.*, Vol. II, pp. 738-740.

Machinery coming from abroad shall be subject to customs duties.

Those of our subjects who engage in any industry shall be subject to the rules established or which may be established in the future.

Private individuals are forbidden to manufacture powder, saltpeter, arms and munitions of war.

98. All our subjects, to whatever religion they may belong, are free to engage in imports and exports in accordance with the laws and regulations already established or which may be established in the future concerning import and export duties on products of the soil and manufactures.

99. All our subjects shall respect the prohibitions which our Government may impose when the interest of the country so requires on the import and export of certain products such as arms, powder, and other munitions of war, salt and tobacco.

## CHAPTER XII. FOREIGNERS ESTABLISHED IN THE KINGDOM OF TUNIS

105. Complete freedom is assured to all foreigners established in the Tunisian State as regards the exercise of their religion.

107. Individual liberty shall be respected in the same manner as that of Tunisian subjects.

109. We guarantee to all foreigners established in the Kingdom, as has been done for Tunisian subjects, complete respect for their property of every nature and for their honour.

110. There are granted to foreigners established in the Kingdom the same rights as are accorded to Tunisian subjects in respect of industries to be carried on and machines to be introduced into the Kingdom and they shall be subject to the same charges and conditions.

111. The said foreigners may not establish factories designed for use for industries except in places where they have the right to become proprietors and on a site designated by the municipality in accordance with the provisions of article 97.

112. Foreigners established in the Tunisian States may engage in import and export on the same footing as Tunisian subjects and they shall submit themselves to the same charges and restrictions as the said Tunisian subjects.

113. Article 11 of the Fundamental Pact accorded to foreigners the right to possess real property on conditions to be established, but although everything resulting from this Fundamental Pact is binding, nevertheless in view of the state of the interior of the country it has been recognised to be impossible to authorise foreigners to possess property there for fear of the consequences. A special law shall therefore designate the localities of the capital and its environments and of the coastal cities and their environments where foreigners may hold real property.

It is understood that foreigners who possess property in the designated localities shall be subject to the laws which are established or may be established later on the same footing as Tunisian subjects.

## Treaty of Guarantee between the Government of the French Republic and that of the Bey of Tunis<sup>1</sup>

12 May 1881

7. The Government of the French Republic and the Government of His Highness the Bey of Tunis reserve the right to fix by common agreement the basis of a financial organisation of the Regency which shall be of a nature to ensure the service of the public debt and to guarantee the rights of the creditors of Tunis.

<sup>1</sup> English translation from French text in J. BASDEVANT (ed.): *Traité et conventions en vigueur entre la France et les puissances étrangères*, Paris, Vol. 3, 1920, pp. 574-575.

Beylical Decree Entrusting the French Resident with the  
Duties of Minister of Foreign Affairs of Tunis<sup>1</sup>

9 June 1881

.....

Decree of the President of the French Republic Fixing the Powers  
of the Resident of Tunis and Organising the French  
Protectorate over the Regency<sup>2</sup>

22 April 1882

.....

Treaty for the Regulation of the Mutual Relations of the  
Two Countries, Signed at Marsa<sup>3</sup>

8 June 1883

1. In order to facilitate the accomplishment of its Protectorate by the French Government, His Highness the Bey of Tunis undertakes to proceed to the administrative, judicial and financial reforms which the French Government considers useful.

2. ....

His Highness the Bey of Tunis undertakes not to contract in future any loan on behalf of the Regency without the authorisation of the French Government.

Decree of the President of the French Republic Fixing the  
Powers of the Commissary Resident General<sup>4</sup>

23 June 1885

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CONVENTIONAL BASIN OF THE CONGO

General Act of the Berlin Conference<sup>5</sup>

26 February 1885

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<sup>1</sup> For French text, see *Code de la Tunisie*, Vol. II, p. 740.

<sup>2</sup> For French text, see *ibid.*, p. 740.

<sup>3</sup> English translation from French text in J. BASDEVANT (ed.): *Traité et conventions en vigueur entre la France et les puissances étrangères*, Paris, Vol. 3, 1920, pp. 575-576.

<sup>4</sup> For French text, see *Code de la Tunisie*, Vol. II, p. 740.

<sup>5</sup> French text in *British State and Foreign Papers*, Vol. 76, 1884-1885, pp. 4-20, or MARTENS: *Nouveau recueil général de traités*, 2nd series, Vol. X, pp. 414-427; English translation in Raymond Leslie BUELL: *The Native Problem in Africa*, Vol. II, pp. 891-907. For the complete protocols of the Conference, see MARTENS, *op. cit.*, 2nd series, Vol. X, pp. 199-427. The Berlin Act was abrogated by the St. Germain Convention of 1919 as between the parties to the latter Instrument.

# General Act of the Brussels Anti-Slavery Conference<sup>1</sup>

2 July 1890

.....

## Convention of St. Germain for the Revision of the General Acts of Berlin and Brussels<sup>2</sup>

10 September 1919

.....

1. The Signatory Powers undertake to maintain between their respective nationals and those of States, Members of the League of Nations, which may adhere to the present Convention a complete commercial equality in the territories under their authority within the area defined by article 1 of the General Act of Berlin of 26 February 1885, set out in the Annex hereto, but subject to the reservation specified in the final paragraph of that article.

.....

2. Merchandise belonging to the nationals of the Signatory Powers, and to those of States, Members of the League of Nations, which may adhere to the present Convention, shall have free access to the interior of the regions specified in article 1. No differential treatment shall be imposed upon the said merchandise on importation or exportation, the transit remaining free from all duties, taxes or dues, other than those collected for services rendered.

Vessels flying the flag of any of the said Powers shall also have access to all the coast and to all maritime ports in the territories specified in article 1; they shall be subject to no differential treatment.

Subject to these provisions, the States concerned reserve to themselves complete liberty of action as to the customs and navigation regulations and tariffs to be applied in their territories.

3. In the territories specified in article 1 and placed under the authority of one of the Signatory Powers, the nationals of those Powers, or of States, Members of the League of Nations, which may adhere to the present Convention shall, subject only to the limitations necessary for the maintenance of public security and order, enjoy without distinction the same treatment and the same rights as the nationals of the Power exercising authority in the territory, with regard to the protection of their persons and effects, with regard to the acquisition and transmission of their movable and real property, and with regard to the exercise of their professions.

4. Each State reserves the right to dispose freely of its property and to grant concessions for the development of the natural resources of the territory, but no regulations on these matters shall admit of any differential treatment between the

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<sup>1</sup> French text in *British State and Foreign Papers*, Vol. 82, 1889-1890, pp. 55-81, or MARTENS: *Nouveau recueil général de traités*, 2nd series, Vol. XVI, pp. 3-29; English translation in BUELL: *op. cit.*, pp. 908-935. The Brussels Act was abrogated by the St. Germain Convention of 1919 as between the parties to the latter Instrument.

<sup>2</sup> French text in *British State and Foreign Papers*, Vol. 112, 1919, pp. 901-908, or MARTENS: *Nouveau recueil général de traités*, 3rd series, Vol. XIV, pp. 12-19; English translation in HUDSON: *International Legislation*, Vol. I, pp. 343-352, or Raymond Leslie BUELL: *The Native Problem in Africa*, Vol. II, pp. 936-941. The effect of this Convention was considered by the Permanent Court of International Justice in the *Oscar Chinn Case*, P.C. I. J. 1934, series A/B No. 63, pp. 65-152.



nationals of the Signatory Powers and of States, Members of the League of Nations, which may adhere to the present Convention.

5. Subject to the provisions of the present chapter, the navigation of the Niger, of its branches and outlets, and of all the rivers, and of their branches and outlets, within the territories specified in article 1, as well as of the lakes situated within those territories, shall be entirely free for merchant vessels and for the transport of goods and passengers.

Craft of every kind belonging to the nationals of the Signatory Powers and of States, Members of the League of Nations, which may adhere to the present Convention shall be treated in all respects on a footing of perfect equality.

6. The navigation shall not be subject to any restriction or dues based on the mere fact of navigation.

It shall not be exposed to any obligation in regard to landing, station, or depot, or for breaking bulk or for compulsory entry into port.

No maritime or river toll, based on the mere fact of navigation, shall be levied on vessels, nor shall any transit duty be levied on goods on board. Only such taxes or duties shall be collected as may be an equivalent for services rendered to navigation itself. The tariff of these taxes or duties shall not admit of any differential treatment.

8. Each of the Signatory Powers shall remain free to establish the rules which it may consider expedient for the purpose of ensuring the safety and control of navigation; on the understanding that these rules shall facilitate, as far as possible, the circulation of merchant vessels.

10. The Signatory Powers recognise the obligation to maintain in the regions subject to their jurisdiction an authority and police forces sufficient to ensure protection of persons and of property and, if necessary, freedom of trade and of transit.

11. The Signatory Powers exercising sovereign rights or authority in African territories will continue to watch over the preservation of the Native populations and to supervise the improvement of the conditions of their moral and material well-being. They will, in particular, endeavour to secure the complete suppression of slavery in all its forms and of the slave trade by land and sea.

They will protect and favour, without distinction of nationality or of religion, the religious, scientific or charitable institutions and undertakings created and organised by the nationals of the other Signatory Powers and of States, Members of the League of Nations, which may adhere to the present Convention, which aim at leading the Natives in the path of progress and civilisation. Scientific missions, their property and their collections, shall likewise be the objects of special solicitude.

Freedom of conscience and the free exercise of all forms of religion are expressly guaranteed to all nationals of the Signatory Powers and to those under the jurisdiction of States, Members of the League of Nations, which may become parties to the present Convention. Similarly, missionaries shall have the right to enter into, and to travel and reside in, African territory with a view to prosecuting their calling.

The application of the provisions of the two preceding paragraphs shall be subject only to such restrictions as may be necessary for the maintenance of public security and order, or as may result from the enforcement of the constitutional law of any of the Powers exercising authority in African territories.



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### GENERAL COLLECTIONS

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## International

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## National

<i>Name of Country</i>	<i>Name of Gazette</i>	<i>Place of Publication</i>
<b>Europe</b>		
ALBANIA	Fletorja Zyrtare e Mbretnise Shqiptare, Gazetetta Ufficiale del Regno d'Albania.	Tirana.
AUSTRIA	Bundesgesetzblatt.	Vienna.
BELGIUM	Moniteur belge des arrêtés ministériels et autres arrêtés des secrétaires généraux — Belgisch Staatsblad der ministerieele besluiten en andere besluiten der Secretarissen Generaal.	Brussels.
	Moniteur belge — Belgisch Staatsblad	London.
	Verordnungsblatt des Militärbefehlshabers in Belgien und Nordfrankreich für die besetzten Gebiete Belgiens und Nordfrankreichs.	Brussels.
BULGARIA	Drjaven Vestnik.	Sofia.
CYPRUS	The Cyprus Gazette.	Nicosia.
CZECHOSLOVAKIA	Sbirka zákonů a nařízení.	Prague.
	Uřední Vestník Československy.	London.
Bohemia and Moravia	Sammlung der Gesetze und Verordnungen des Proktetorates Böhmen und Mähren — Sbirka zákonů a nařízení — Protektorátu Čechy a Morava.	Prague.
	Verordnungsblatt des Reichsprotektors in Böhmen und Mähren — Vestník nařízení říšského protektora v Cechách a na Moravě.	Prague.
Slovakia	Slovenský zákonník.	Bratislava.
DANZIG	Gesetzblatt für die Freie Stadt Danzig.	Danzig.
	Staatsanzeiger für die Freie Stadt Danzig.	Danzig.
DENMARK	Lovtidenden.	Copenhagen.
ESTONIA	Riigi Teataja.	Tallinn.
FINLAND	Suomen asetuskokoelma.	Helsinki.
	Finlands författningssamling.	
FRANCE	Journal officiel de la République française.	Paris.
	Journal officiel de l'Etat français.	Vichy.
	Verordnungsblatt des Militärbefehlshabers in Frankreich.	Paris.
	Journal officiel de la France Combattante.	London.
	Journal officiel de la République française.	Algiers.
GERMANY	Reichsgesetzblatt.	Berlin.
	Deutscher Reichsanzeiger und Preussischer Staatsanzeiger	Berlin.
<i>States and Reich Districts</i>		
Anhalt	Amtsblatt für Anhalt.	Dessau.
Baden	Badisches Gesetz- und Verordnungsblatt.	Karlsruhe.
	Ministerial-Blatt für die Badische innere Verwaltung.	

<sup>1</sup> This list includes Gazettes issued by Allied Governments from London or other temporary headquarters and Gazettes issued by occupying authorities during the war.

<i>Name of Country</i>	<i>Name of Gazette</i>	<i>Place of Publication</i>
Bavaria	Gesetz- und Verordnungsblatt für den Freistaat Bayern.	Munich.
Bremen	Gesetzblatt der Freien Hansestadt Bremen.	Bremen.
Brunswick	Braunschweigische Gesetz- und Verordnungs-sammlung.	Wolfenbüttel.
Danzig-West Prussia	Verordnungsblatt.	Danzig.
Hamburg	Amtsblatt.	
Hesse	Hamburgisches Gesetz- und Verordnungsblatt.	Hamburg.
Lippe	Hessische Amtsblätter.	Darmstadt.
Lower Danube	Staatsanzeiger für das Land Lippe.	Detmold.
Lübeck	Verordnungs- und Amtsblatt für das Reichsgau Niederdonau.	Vienna.
Mecklenburg-Schwerin	Gesetz- und Verordnungsblatt der Freien und Hansestadt Lübeck.	Lübeck.
Mecklenburg-Strelitz	Regierungsblatt für Mecklenburg-Schwerin.	Schwerin.
Oldenburg	Mecklenburg-Strelitzscher Anzeiger.	Neu-Strelitz.
Prussia	Gesetzblatt für den Freistaat Oldenburg.	Oldenburg.
Saxony	Oldenburg Gesetzblatt.	
Saarland	Preussische Gesetzsammlung.	Berlin.
Salzburg	Deutscher Reichsanzeiger und Preussischer Staatsanzeiger.	Berlin.
Schaumburg-Lippe	Sächsisches Gesetzblatt.	Dresden.
Steiermark	Sächsisches Verwaltungsblatt.	Dresden.
Sudetenland	Verordnungs- und Amtsblatt.	Saarbrücken.
Thüringen	Verordnungs- und Amtsblatt für das Reichsgau Salzburg.	Salzburg.
Tirol and Voralberg	Schaumburg-Lippe Landesanzeiger.	Bückeburg.
Upper Danube	Schaumburg-Lippe Landesverordnungen.	
Wartheland	Verordnungs- und Amtsblatt für das Reichsgau Steiermark.	Graz.
Württemberg	Verordnungsblatt für das Reichsgau Sudetenland.	Reichenberg.
GIBRALTAR	Gesetzsammlung für Thüringen.	Weimar.
GREAT BRITAIN	Verordnungs- und Amtsblatt für das Reichsgau Tirol und Voralberg.	Innsbruck.
Scotland	Verordnungs- und Amtsblatt für das Reichsgau Oberdonau.	Linz.
Northern Ireland	Verordnungsblatt des Reichsstatthalters in Warthegau.	Posen.
GREECE	Regierungsblatt für Württemberg.	Stuttgart.
	Gibraltar Chronicle and Official Gazette.	Gibraltar.
	London Gazette.	London.
	Edinburgh Gazette.	Edinburgh.
	Belfast Gazette	Belfast.
	Ephemeris tes Kuberneseos tou Basileiou tes Hellados.	Athens.
	Ephemeris tes Kuberneseos tou Basileiou tes Hellados.	London.
HUNGARY	Országos Törvénytar.	Budapest.
ICELAND	Budapesti Közlöny.	Budapest.
IRELAND	Stjórnartíðindi.	Reykjavik.
ITALY	Iris Oifigiúil.	Dublin.
Aegean Islands	Gazzetta Ufficiale del Regno d'Italia.	Rome.
	Bolletino Ufficiale del Governo delle Isole italiane dell'Egeo.	Rhodes.
LATVIA	Valdības Vestnesis.	Riga.
LIECHTENSTEIN	Liechtensteinisches Landesgesetzblatt.	Vaduz.
LITHUANIA	Vyriausybės Žinios.	Kaunas.
Memel	Klaipėdos Krašto Valdžios Žinios — Amtsblatt des Memelgebietes.	Memel.
LUXEMBURG	Mémorial du Grand-Duché de Luxembourg.	Luxemburg.
	Mémorial du Grand-Duché de Luxembourg.	London.
MALTA	The Malta Government Gazette.	Malta.
MONACO	Journal de Monaco.	Monaco.

<i>Name of Country</i>	<i>Name of Gazette</i>	<i>Place of Publication</i>
NETHERLANDS	Staatsblad van den Koninkrijk der Nederlanden.	The Hague.
	Nederlandsche Staatscourant.	The Hague.
	Verordnungsblatt für die besetzten niederländischen Gebiete-Verordnungenblad voor het bezette Nederlandsche gebied.	The Hague.
	Staatsblad van den Koninkrijk der Nederlanden.	London.
NORWAY	Nederlandsche Staatscourant.	London.
	Norsk Lovtidend.	Oslo.
	Verordnungsblatt für die besetzten norwegischen Gebiete - Forordningstidend for de besatte norske områder.	Oslo.
POLAND	Norsk Lovtidend.	London.
	Dziennik Ustaw.	Warsaw.
	Verordnungsblatt für das Generalgouvernement—Dziennik Rozporządzen dla Generalnego gubernatorstwa.	Cracow.
	Dziennik Ustaw Slaskich.	
Silesia	Diário do Governo.	Lisbon.
PORTUGAL	Regatul Romaniei Monitorul oficial.	Bucharest.
RUMANIA	Verordnungen, Erlasse, Verfügungen und Bekanntmachungen der Regierungskommission des Saargebietes.	Saarbrücken
SAAR TERRITORY		
SPAIN	Gaceta de Madrid.	Madrid.
	Gaceta de la República.	Madrid.
	Boletín oficial del Estado.	Madrid.
Catalonia	Bulletí oficial de la Catalunya.	Barcelona.
	Diario oficial.	Barcelona.
SWEDEN	Svensk författningssamling.	Stockholm.
SWITZERLAND	Bundesblatt.	Berne.
	Feuille fédérale.	Berne.
	Suppléments: Eidgenössische Gesetzssammlung. Recueil des lois fédérales.	
<i>Cantons of Switzerland</i>		
Aargau	Amtsblatt des Kantons Aargau.	Aarau.
	Gesetzessammlung für den Eidgenössischen Kanton Aargau.	Aarau.
Appenzell A.-Rh.	Amtsblatt des Kantons Appenzell.	Appenzell.
	Sammlung bestehender Verordnungen, Reglemente, etc.	
Appenzell I.-Rh.	Sammlung der Gesetze und Verordnungen.	Appenzell.
Basle Country	Amtsblatt für Kanton Basellandschaft.	Basle.
Basle Town	Gesetzessammlung.	
Berne	Amtsblatt des Kantons Bern.	Berne.
Fribourg	Feuille officielle du Canton de Fribourg.	Fribourg.
Geneva	Feuille d'avis officielle de la République et du Canton de Genève.	Geneva.
Glarus	Amtsblatt des Kantons Glarus.	Glarus.
	Landsbuch des Kantons Glarus (Kantons-gesetze, Verordnungen, und Beschlüsse).	
Grisons	Staat-kalender-Tagblatt.	Chur.
	Gesetzessammlung.	Chur.
Lucerne	Kantonsblatt.	Lucerne.
	Gesetze, etc.	
Neuchatel	Feuille officielle de la République et du Canton de Neuchatel.	Neuchatel.
	Recueil des lois, etc.	
St. Gall	Amtsblatt für das Kanton St. Gallen.	St. Gall.
	Gesetzessammlung.	
Schaffhausen	Amtsblatt.	Schaffhausen.
	Sammlung für Gesetze, etc.	
Schwyz	Amtsblatt.	Schwyz.
	Gesetzessammlung.	
Solothurn	Amtsblatt.	Solothurn.
	Gesetzessammlung.	

<i>Name of Country</i>	<i>Name of Gazette</i>	<i>Place of Publication</i>
Thurgau	Amtsblatt. Gesetzessammlung.	Frauenfeld.
Ticino	Foglio Ufficiale del Cantone Ticino.	Bellinzona.
Unterwalden Nidwalden	Amtsblatt.	Stans.
Obwalden	Gesetzbuch. Amtsblatt.	Sarnen.
Uri	Sammlung der Gesetze und Verordnungen. Amtsblatt.	Altdorf.
Valais	Landbuch des Kantons Uri: Gesetze, etc. Bulletin officiel du Canton du Valais—Amts- blatt des Kantons Wallis.	Sion.
Vaud	Recueil des lois—Sammlung der Gesetze. Feuille des avis officiels du Canton de Vaud.	Lausanne.
Zug	Recueil des lois. Amtsblatt des Kantons Zug.	Zug.
Zürich	Gesetzessammlung. Amtsblatt des Kantons Zürich.	Zürich.
TURKEY	Resmi Gazete.	Ankara.
U.S.S.R.	Sobranie Postanovlenie i Rasporiajenie — Pravitelstva S.S.S.R.	Moscow.
<i>Union Republics of the U.S.S.R.</i>		
R.S.F.S.R.	Sobranie postanovlenie i Raboche-Krestian- kovo Rasporiajenie Pravitelstva R.S.F.S.R.	Moscow.
Ukraine	Visti V'seukraïnskogo tsentral'nogo vikonav- chogo komitetu. Kommunist. Sovetskaia Ukraina. Visti Raddeputatov Trudiaschchikhsia Uk. S.S.R.	
Bielorussia	Savetskaia Belarus. Sovetskaia Belorussia. Zvezda.	
Azerbaidjan	Bakinskii Rabochii. Kommunist.	
Georgia	Kommunist. Zaria Vostoka.	
Armenia	Sovetskaia Armenia. Kommunist.	
Turkmenia	Turkmenskaia Iskra. Sovetskii Turkmenistan	
Uzbekistan	Pravda Vostoka. Krasnyi Uzbekistan.	
Tadzhikistan	Kommunist Tadzhikistana. Krasnyi Tadzhikistan.	
Kazakhstan	Kazakhstanskaia Pravda. Sotsialisticheskii Kazakhstan.	
Kirghizia	Sovetskaia Kirgiziia. Krasnaia Kirgiziia.	
VATICAN CITY	Acta Apostolicae Sedis.	Vatican City.
YUGOSLAVIA	Sluzbene Novine Kraljevine Jugoslavie.	Belgrade.
Serbia	Bekanntmachungen und Veröffentlichungen der deutschen Behörden in Serbien. Verordnungsblatt des Befehlshabers Serbiens.	Belgrade.
Croatia	Zbornik Zakona i naredaba nezavisne drzave hrvatske izdaje zakonodavno povjerenistvo pri poglavniku.	Belgrade. Zagreb.
<b>America</b>		
UNITED STATES OF AMERICA	Federal Register.	Washington, D.C.
ARGENTINE REPUBLIC	Boletín oficial de la República Argentina.	Buenos Aires.

<i>Name of Country</i>	<i>Name of Gazette</i>	<i>Place of Publication</i>
<i>Provinces of Argentina</i>		
Buenos Aires	Boletín oficial de la Provincia de Buenos Aires.	La Plata.
Catamarca	Boletín oficial de la Provincia de Catamarca.	Catamarca.
Córdoba	Boletín oficial de la Provincia de Córdoba.	Córdoba.
Corrientes	Boletín oficial de la Provincia de Corrientes.	Corrientes.
Entre Ríos	Boletín oficial de la Provincia de Entre Ríos.	Paraná.
Jujuy	Boletín oficial de la Provincia de Jujuy.	Jujuy.
La Rioja	Boletín oficial de la Provincia de La Rioja.	La Rioja.
Mendoza	Boletín oficial de la Provincia de Mendoza.	Mendoza.
Salta	Boletín oficial de la Provincia de Salta.	Salta.
San Juan	Boletín oficial de la Provincia de San Juan.	San Juan.
San Luis	Boletín oficial y judicial de la Provincia de San Luis.	San Luis.
Santa Fe	Boletín oficial de la Provincia de Santa Fe.	Santa Fe.
Santiago del Estero	Boletín oficial de la Provincia de Santiago del Estero.	Santiago del Estero.
Tucumán	Boletín oficial de la Provincia de Tucumán.	Tucumán.
<i>Territories of Argentina</i>		
Chaco	Boletín oficial de la Gobernación.	Resistencia.
Chubut	Boletín oficial (de la) Gobernación del Territorio Nacional de Chubut.	Rawson.
Formosa	Boletín oficial.	Formosa.
Misiones	Boletín oficial.	Posados.
Neuquén	Boletín oficial.	Neuquén.
Pampa	Boletín oficial de la Gobernación.	Santa Rosa.
Río Negro	Boletín oficial de la Gobernación de Río Negro.	Viedma.
Santa Cruz	Boletín oficial.	Río Gallegos.
BRAZIL, UNITED STATES OF	Diário oficial.	Rio de Janeiro.
<i>States of Brazil</i>		
Alagoas	Diário oficial do Estado de Alagoas.	Maceió.
Amazonas	Diário oficial.	Manáos.
Bahia	Diário oficial, Estado da Bahia.	Salvador.
Ceará	Diário oficial, Estado do Ceará.	Fortaleza.
Espirito Santo	Diário oficial, Estado do Espirito Santo.	Vitória.
Maranhão	Diário oficial, Estado do Maranhão.	S. Luiz.
Mato Grosso	Diário oficial, Estado de Mato Grosso.	Cuiabá.
Minas Gerais	Minas Gerais, órgão oficial dos Poderes do Estado.	Belo Horizonte.
Pará	Diário oficial do Estado do Pará.	Belem.
Paraíba	A União, órgão oficial do Estado.	João Pessoa.
Pernambuco	Diário do Estado, órgão oficial do Estado de Pernambuco.	Recife.
Piauí	Diário oficial.	Teresina.
Rio de Janeiro	Diário oficial, Estado do Rio de Janeiro	Niterói.
Rio Grande do Norte	A Republica, órgão oficial do Estado.	Natal.
Rio Grande do Sul	Jornal do Estado, órgão dos Poderes publicos do Rio Grande do Sul.	Porto Alegre.
Santa Catarina	Diário oficial do Estado de Santa Catarina.	Florianópolis.
São Paulo	Diário oficial do Estado de São Paulo.	São Paulo.
Sergipe	Diário oficial do Estado de Sergipe.	Aracajú.
<i>Territories of Brazil</i>		
Acre	O Acre: órgão oficial do Governo de Território.	Rio Branco.
BRITISH COLONIES		
Bermuda	Official Gazette.	Hamilton.
British Guiana	Official Gazette of British Guiana.	Georgetown.
British Honduras	Government Gazette.	Belize.

<i>Name of Country</i>	<i>Name of Gazette</i>	<i>Place of Publication</i>
<i>British West Indies</i>		
Bahamas	Official Gazette.	Nassau.
Barbados	Official Gazette.	Bridgetown.
Jamaica	Jamaica Gazette.	Kingston.
Turks & Caicos Islands	The Gazette.	Grand Turk.
Leeward Islands	Leeward Islands Gazette. (This Gazette covers Antigua and Montserrat.)	Antigua.
Dominica	Official Gazette.	Roseau.
St. Christopher and Nevis	Saint Christopher and Nevis Official Gazette.	St. Kitts and Nevis.
Trinidad and Tobago	Trinidad Royal Gazette.	Port of Spain.
Windward Islands		
Grenada	Grenada Government Gazette.	St. George's.
St. Lucia	Saint Lucia Gazette.	Castries.
St. Vincent	Saint Vincent Government Gazette.	Kingstown.
Falkland Islands	Falkland Islands Gazette.	Stanley.
CANADA	The Canada Gazette—La Gazette du Canada.	Ottawa.
<i>Provinces of Canada</i>		
Alberta	The Alberta Gazette.	Edmonton.
British Columbia	The British Columbia Gazette.	Victoria.
Manitoba	The Manitoba Gazette.	Winnipeg.
New Brunswick	The Royal Gazette.	Fredericton.
Nova Scotia	Royal Gazette.	Halifax.
Ontario	The Ontario Gazette.	Toronto.
Prince Edward Island	Royal Gazette.	Charlottetown.
Quebec	Gazette officielle de Québec—Quebec Official Gazette.	Quebec.
Saskatchewan	The Saskatchewan Gazette.	Regina.
CHILE	Diario oficial de la República de Chile.	Santiago.
COLOMBIA	Diario oficial, órgano de publicidad de los actos del Gobierno Nacional.	Bogotá.
COSTA RICA	La Gaceta, diario oficial.	San José de Costa Rica.
CUBA	Gaceta oficial.	La Habana.
DOMINICAN REPUBLIC	Gaceta oficial.	Ciudad Trujillo.
DUTCH COLONIES		
Curaçao	Publicatieblad.	Willemstad.
Surinam	Gouvernementsblad van Suriname.	Paramaribo.
ECUADOR	Registro oficial.	Quito.
FRENCH COLONIES		
French Guiana	Journal officiel de la Guyane française.	Cayenne.
Guadeloupe	Journal officiel de la Guadeloupe.	Basse-Terre.
Martinique	Journal officiel de la Martinique.	Fort-de-France.
St. Pierre and Miquelon	Journal officiel des Iles Saint-Pierre et Miquelon.	Saint-Pierre.
GUATEMALA	Diario de Centro América. Órgano oficial del Gobierno de la República de Guatemala.	Guatemala.
HAITI	Le Moniteur. Journal officiel de la République d'Haiti.	Port-au-Prince.
HONDURAS	La Gaceta, diario oficial de la República de Honduras.	Tegucigalpa, D.C.
MEXICO, UNITED STATES OF	Diario oficial, órgano del Gobierno constitucional de los Estados Unidos Mexicanos.	Mexico.
<i>States of Mexico</i>		
Aguascalientes	Periódico oficial, órgano del Gobierno constitucional del Estado.	Aguascalientes.

<i>Name of Country</i>	<i>Name of Gazette</i>	<i>Place of Publication</i>
Campeche	Periódico oficial del Gobierno socialista del Estado de Campeche.	Campeche.
Chiapas	Periódico oficial del Gobierno del Estado de Chiapas.	Tuxtla Gutiérrez.
Chihuahua	Periódico oficial del Gobierno del Estado.	Chihuahua.
Coahuila	Periódico oficial, órgano del Gobierno constitucional del Estado independiente, libre y soberano de Coahuila de Zaragoza.	Saltillo, Coah.
Colima	El Estado de Colima, periódico oficial del Gobierno constitucional.	Colima.
Durango	Periódico oficial del Gobierno constitucional del Estado libre y soberano de Durango.	Durango.
Guanajuato	Periódico oficial del Gobierno del Estado de Guanajuato.	Guanajuato.
Guerrero	Periódico oficial del Gobierno del Estado de Guerrero.	Chilpancingo.
Hidalgo	Periódico oficial del Gobierno del Estado de Hidalgo.	Pachuca de Soto.
Jalisco	El Estado de Jalisco, periódico oficial del Gobierno.	Guadalajara.
Mexico	Gaceta del Gobierno, órgano del Gobierno constitucional del Estado de México.	Toluca de Lerdo.
Michoacan	Periódico oficial del Gobierno constitucional del Estado.	Morelia.
Morelos	Periódico oficial, órgano del Gobierno del Estado libre y soberano de Morelos.	Cuernavaca.
Nayarit	Periódico oficial, órgano del Gobierno del Estado.	Tepic.
Nuevo León	Periódico oficial del Gobierno constitucional del Estado libre y soberano de Nuevo León.	Monterrey.
Oaxaca	Periódico oficial, órgano del Gobierno constitucional del Estado libre y soberano de Oaxaca.	Oaxaca de Juárez.
Puebla	Periódico oficial del Gobierno constitucional del Estado libre y soberano de Puebla.	Puebla de Zaragoza.
Querétaro	La sombra de Arteaga, periódico oficial del Gobierno del Estado de Querétaro.	Querétaro.
San Luis Potosí	Periódico oficial del Gobierno del Estado libre y soberano de San Luis Potosí.	San Luis Potosí.
Sinaloa	Periódico oficial del Gobierno del Estado de Sinaloa.	Culiacán.
Sonora	Boletín oficial.	Hermosilla.
Tabasco	Periódico oficial, órgano del Gobierno constitucional del Estado de Tabasco.	Villahermosa, Tab.
Tamaulipas	Periódico oficial, órgano del Gobierno constitucional del Estado libre y soberano de Tamaulipas.	Ciudad Victoria.
Tlaxcala	Periódico oficial del Gobierno del Estado.	Tlaxcala.
Veracruz	Gaceta oficial, órgano del Gobierno del Estado de Veracruz-Llave.	Jalapa-Enríquez.
Yucatan	Diario oficial del Gobierno socialista del Estado de Yucatán.	Mérida.
Zacatecas	Periódico oficial, órgano del Gobierno del Estado.	Zacatecas.
<i>Territories of Mexico</i>		
Baja California (northern territory)	Periódico oficial, órgano del Gobierno del Territorio norte de Baja California.	Mexicali.
Baja California (southern territory)	Boletín oficial del Gobierno del Territorio sur de Baja California.	La Paz.
Quintana Roo	Periódico oficial del Gobierno del Territorio de Quintana Roo.	Ciudad Chetumal.
NEWFOUNDLAND	The Newfoundland Gazette.	St. John's.

<i>Name of Country</i>	<i>Name of Gazette</i>	<i>Place of Publication</i>
NICARAGUA	La Gaceta, diario oficial.	Managua, D.N.
PANAMA	Gaceta oficial, órgano del Estado.	Panama.
PARAGUAY	Gaceta oficial de la República del Paraguay.	Asunción.
PERU	El Peruano, diario oficial.	Lima.
SALVADOR	Diario oficial.	San Salvador.
URUGUAY	Diario oficial de la República Oriental del Paraguay.	Montevideo.
VENEZUELA, UNITED STATES OF	Gaceta oficial de los Estados Unidos de Venezuela.	Caracas.
<i>States of Venezuela</i>		
Anzoátegui	Gaceta oficial del Estado Anzoátegui.	Barcelona.
Apure	Gaceta oficial del Estado Apure.	San Fernando.
Aragua	Gaceta oficial del Estado Aragua.	Maracay.
Barinas	Gaceta oficial del Estado Barinas.	Barinas.
Bolívar	Gaceta oficial del Estado Bolívar.	Ciudad Bolívar.
Carabobo	Gaceta oficial del Estado Carabobo.	Valencia.
Cojedes	Gaceta oficial del Estado Cojedes.	San Carlos.
Falcón	Gaceta oficial del Estado Falcón.	Coro.
Guárico	Gaceta oficial del Estado Guárico.	San Juan de los Morros.
Lara	Gaceta oficial del Estado Lara.	Barquisimeto.
Mérida	Gaceta oficial del Estado Mérida.	Mérida.
Miranda	Gaceta oficial del Estado Miranda.	Los Teques.
Monagas	Gaceta oficial del Estado Monagas.	Maturín.
Nueva Esparta	Gaceta oficial del Estado Nueva Esparta.	La Asunción.
Portuguesa	Gaceta del Estado Portuguesa.	Guanaré.
Sucre	Gaceta oficial del Estado Sucre.	Cumaná.
Táchira	Gaceta oficial del Estado Táchira.	San Cristóbal.
Trujillo	Gaceta oficial de Trujillo.	Trujillo.
Yaracuy	Gaceta oficial del Estado Yaracuy.	San Felipe.
Zulia	Gaceta oficial del Estado Zulia.	Maracaibo.
<i>Territories of Venezuela</i>		
Delta-Amacuro	Gaceta oficial del Territorio Federal Delta-Amacuro.	Tucupita.
<b>Asia</b>		
ADEN	The Official Gazette of the Colony of Aden.	Jerusalem.
AFGHANISTAN	Official Gazette.	Kabul.
BORNEO		
British North Borneo	Official Gazette.	Sandakran.
SARAWAK	Sarawak Government Gazette.	Kuching.
BURMA	The Burma Gazette.	Rangoon.
CEYLON	The Ceylon Government Gazette.	Colombo.
CHINA	National Government Gazette.	
FRENCH ESTABLISHMENTS IN INDIA	Journal officiel des établissements français dans l'Inde.	Pondichéry.
HONG-KONG	The Hong-Kong Government Gazette.	Victoria.
INDIA	The Gazette of India.	New Delhi.
<i>Provinces of India</i>		
Assam	The Assam Gazette.	Shillong.
Bengal	The Calcutta Gazette.	Calcutta.
Bihar	The Bihar Gazette.	Patna.
Bombay	The Bombay Government Gazette.	Bombay.
Central Provinces and Berar	The Central Provinces Gazette.	Nagpur.
Madras	The Fort St. George Gazette.	Madras.



<i>Name of Country</i>	<i>Name of Gazette</i>	<i>Place of Publication</i>
North-West Frontier Province	Government Gazette.	Peshawar.
Orissa	The Orissa Gazette.	Cuttack.
Punjab	The Punjab Gazette.	Lahore.
Sind	The Sind Government Gazette.	Karachi.
United Provinces Agra and Oudh	The Government Gazette of the United Provinces.	Allahabad.
<i>States of India</i>		
Baroda	Adnyapatrika.	Baroda.
Bhavnagar	Bhavnagar Darbar Gazette.	Bhavnagar.
Bikaner	The Bikaner Rajpatra.	Bikaner.
Cochin	The Cochin Government Gazette.	Ernakulam.
Gwalior	Gwalior Government Gazette.	Lashka.
Hyderabad	Jarida Elamia.	Hyderabad City.
Indore	The Holkar Government Gazette.	Indore.
Mysore	The Mysore Gazette.	Bangalore.
Travancore	The Travancore Government Gazette.	Trivandrum.
INDO-CHINA	Journal officiel de l'Indochine française.	Hanoi.
Annam	Bulletin administratif de l'Annam.	Huê.
Cambodia	Bulletin administratif du Cambodge.	Phnôm-Penh.
Cochin-China	Bulletin administratif de la Cochinchine.	Saigon.
Laos	Bulletin administratif du Tonkin.	Vientiane.
Tonkin	Bulletin administratif du Tonkin.	Hanoi.
IRAQ	Iraq Government Gazette.	Baghdad.
JAPAN	Kampo.	Tokyo.
MALAYA		
Straits Settlements	Straits Settlements Government Gazette.	Singapore.
Federated Malay States	Government Gazette of the Federated Malay States and of each of the States of Perak, Selangor, Negri Sembilan and Pahang.	Kuala Lumpur.
Unfederated Malay States		
Johore	Johore Government Gazette.	Johore.
Kedah	Kedah Government Gazette.	Alor Star.
Trengganu	Trengganu Government Gazette.	Kuala Trengganu.
NETHERLANDS	Staat van Nederlandsch-Indië.—	Batavia.
INDIES	Javasche Courant.	
OUTER MONGOLIA	National Government Gazette.	
PALESTINE	The Palestine Gazette.	Jerusalem.
PHILIPPINES	Official Gazette.	Manila.
SAUDI ARABIA	Umm-al-Qwanin.	
SYRIA AND LEBANON		
High Commissariat	Bulletin officiel des actes administratifs du haut commissariat.	
Syria	Journal officiel de la République Syrienne.	Damascus.
Alexandretta		
Latakia	Journal officiel du Gouvernement de Latakia.	Latakia.
Lebanon	Journal officiel de la République Libanaise.	Beirut.
<i>Oceania</i>		
AUSTRALIA	Commonwealth of Australia Gazette.	Canberra.
<i>States of Australia</i>		
New South Wales	Government Gazette of the State of New South Wales.	Sydney.
Queensland	Queensland Government Gazette.	Brisbane.
South Australia	The South Australian Government Gazette.	Adelaide.
Tasmania	Tasmanian Government Gazette.	Hobart.
Victoria	Victoria Government Gazette.	Melbourne.
Western Australia	Government Gazette of Western Australia.	Perth.
FIJI	Fiji Royal Gazette.	Suva.
FRENCH ESTABLISHMENTS IN OCEANIA	Journal officiel des établissements français de l'Océanie.	Papeete.

<i>Name of Country</i>	<i>Name of Gazette</i>	<i>Place of Publication</i>
NEW CALEDONIA AND DEPENDENCIES	Journal officiel de la Nouvelle Calédonie et dépendances.	Nouméa.
NEW GUINEA	New Guinea Gazette.	Rabaul.
NEW HEBRIDES	New Hebrides Condominium Gazette. — Journal officiel du Condominium des Nou- velles-Hébrides.	New Hebrides.
NEW ZEALAND	The New Zealand Gazette.	Wellington.
PAPUA	Government Gazette.	Port Moresby.
SAMOA		
Western Samoa	The Western Samoa Gazette.	Apia.
WESTERN PACIFIC ISLANDS	Western Pacific High Commission Gazette (including Gilbert and Ellice and British Solomon Islands).	Suva.
TONGA	Tonga Government Gazette.	Nukualofa.
<b>Africa</b>		
ABYSSINIA	Official Gazette.	Tahsas.
ALGERIA	Journal officiel de l'Algérie.	Algiers.
BELGIAN CONGO	Bulletin officiel du Congo belge. Bulletin administratif du Congo belge. Bulletin officiel du Ruanda-Urundi.	Leopoldville.
Ruanda Urundi		
BRITISH EAST AFRICA		
Kenya	The Official Gazette of the Colony and Pro- tectorate of Kenya.	Nairobi.
Northern Rhodesia	Northern Rhodesia Government Gazette.	Lusaka.
Nyasaland	The Nyasaland Government Gazette.	Zomba.
Somaliland	Somaliland Protectorate Gazette.	
Tanganyika	Tanganyika Territory Gazette.	Dar-es-Salaam.
Uganda	The Uganda Gazette.	
Zanzibar	Official Gazette of the Zanzibar Government.	Zanzibar.
BRITISH HIGH COM- MISSION TERRITORIES		
Basutoland } Bechuanaland } Swaziland }	Official Gazette of the High Commissioner for Basutoland, the Bechuanaland Protec- torate and Swaziland.	Pretoria.
BRITISH WEST AFRICA		
Gambia	Gambia Government Gazette.	Bathurst.
Gold Coast	Gold Coast Gazette.	Accra.
Nigeria	Nigeria Gazette.	Lagos.
Sierra Leone	Sierra Leone Royal Gazette.	Freetown.
EGYPT	Journal officiel du Gouvernement Egyptien.	Cairo.
FRENCH EQUATORIAL AFRICA	Journal officiel de l'Afrique équatoriale fran- çaise.	Brazzaville.
FRENCH WEST AFRICA	Journal officiel de l'Afrique occidentale fran- çaise.	Dakar.
Cameroons	Journal officiel des territoires du Cameroun.	Yaoundé.
Senegal	Journal officiel du Sénégal.	St. Louis.
Sudan	Journal officiel du Soudan français.	Bamako.
Guinea	Journal officiel de la Guinée française.	Conakry.
Ivory Coast	Journal officiel de la Côte d'Ivoire.	Abidjan.
Dahomey	Journal officiel du Dahomey.	Porto Novo.
Togoland	Journal officiel du territoire du Togoland.	Lomé.
FRENCH SOMALILAND	Journal officiel de la Côte française des Somalis.	Djibouti.
ITALIAN COLONIES		
East Africa	Giornale ufficiale.	Addis Ababa.
Eritrea	Bollettino ufficiale del Governo dell'Ertrirea.	Asmara.
Italian Somaliland	Bollettino ufficiale della Somalia Italiana.	Mogadiscio.
Libya	Bollettino ufficiale della Libia.	
Cyrenaica	Bollettino ufficiale del Governo della Cire- naica.	
Tripolitania	Bollettino ufficiale del Governo della Tri- politania.	Tripoli.

<i>Name of Country</i>	<i>Name of Gazette</i>	<i>Place of Publication</i>
MADAGASCAR	Journal officiel de Madagascar et dépendances.	Antananarivo.
MAURITIUS	The Government Gazette of the Colony of Mauritius.	Port Louis.
MOROCCO		
French Zone	Bulletin officiel du Protectorat de la République française au Maroc.	Rabat.
Spanish Zone	Boletín oficial de la Zona de Protectorado Español en Marruecos.	Tetuan.
PORTUGUESE COLONIES		
Angola	Boletim oficial da Colónia de Angola.	Luanda or S. Paulo de Loanda.
Cape Verde Islands	Boletim oficial do Governo da Colónia de Cabo Verde.	Praia.
Mozambique	Boletim oficial da Colónia de Moçambique.	Lourenço Marques.
Portuguese Guinea	Boletim oficial da Colónia da Guiné.	Bolama.
S. Tomé and Príncipe Islands	Boletim oficial.	
ST. HELENA	St. Helena Government Gazette.	St. Helena.
SEYCHELLES	The Seychelles Government Gazette.	Mahé.
SOUTH AFRICA,	The Union of South Africa Government Gazette — Staatskoerant van die Unie van Suid-Africa.	Pretoria.
UNION OF		Cape Town.
<i>Provinces of South Africa</i>		
Cape of Good Hope	Government Gazette. Official Gazette of the Province of the Cape of Good Hope. — Officiële Koerant van die Provinsie Kaap die Goeie Hoop.	Cape Town.
Natal	Government Gazette of the Province of Natal. — Officiële Koerant van die Provinsie Natal.	Pietermaritzburg.
Orange Free State	Official Gazette of the Province of the Orange Free State. — Officiële Koerant van die Provinsie Oranje Vrystaat.	Bloemfontein.
Transvaal	The Province of Transvaal Official Gazette. — Die Provinsie Transvaal offisiële Koerant.	Pretoria.
SOUTHERN RHODESIA	Colony of Southern Rhodesia Government Gazette.	Salisbury.
SUDAN	Sudan Government Gazette.	Khartoum.
TUNISIA	Journal officiel tunisien.	Tunis.

## COLLECTED EDITIONS OF LAWS AND REGULATIONS

*The present list does not purport to give particulars of collected editions of laws and regulations for all countries but merely to list collections containing material bearing on constitutional arrangements, most of which is not conveniently available in any other form.*

### International Collections

INTERNATIONAL LABOUR OFFICE: *Legislative Series*, Geneva and Montreal.

    English Edition — 1919- (23 annual volumes have already appeared).

    French Edition — 1920- (22 annual volumes have already appeared).

    German Edition — 1920-1936, 17 vols.

INTERNATIONAL LABOUR OFFICE: *Legislación social de América Latina*, Geneva, 1928-1929, 2 vols.

- Bulletin of the International Labour Office* (Basle).  
 English Edition — London, 1906-1919, 14 vols.  
 French Edition — Paris, 1902-1919, 18 vols.  
 German Edition — Jena, 1902-1919, 18 vols.

### National Collections

#### Europe

- CYPRUS** *The Statute Laws of Cyprus, 1878-1923*, Waterlow and Sons, Ltd., London, 1923, 2 vols.
- FRANCE** *SIREY: Lois annotées*. Publiées par le recueil de jurisprudence qui porte le nom de J. B. SIREY. Le tome I contient les lois principales de 1789 à 1830. Les années 1831 à 1848 forment un volume; 1848-1860, depuis lors chaque période quinquennale donne un volume. 2 vols.
- GIBRALTAR** *The Revised Edition of the Laws of Gibraltar*, Garrison Library Committee, Gibraltar, 1935, 4 vols.
- GREAT BRITAIN** *The Complete Statutes of England*, classified and annotated in continuation of Halsbury's Laws of England, with continuation laws and cumulative supplements for years subsequent to original publications, 1929-, 34 vols.  
*Statutory Rules and Orders Revised*, containing all those of a public and general character in force on 31 December 1903. Continued by annual volumes for subsequent years. H.M. Stationery Office, London, 1904, 13 vols.  
*Index to Statutory Powers and Rules and Orders in Force*, showing the rules and orders in force on 31 August 1939, H.M. Stationery Office, London, 1940, 1 vol.
- Channel Islands  
 Guernsey *Recueil d'ordres en conseil d'un intérêt général enregistrés sur les records de l'Île de Guernsey depuis l'année 1800*, Richard Ltée., Guernsey, 1903-, 4 vols.
- Jersey *Lois et règlements passés par les Etats de Jersey, revêtus de la Sanction Royale*, C. Le Feuvre, Jersey, 1878-, 4 vols.
- Isle of Man *The Statutes of the Isle of Man*, Eyre and Spottiswoode, London, 1883-1937, 13 vols.
- NETHERLANDS** *Versameling van de sinds 1850 in het Staatsblad opgenomen koninklijke vernietigingsbesluiten*, ed. by S. K. Thoden van VELZEN, S. Gouda Quint, Arnhem, 1907, 1 vol.  
*Recueil des lois et actes généraux du gouvernement, en vigueur dans le royaume des Pays-Bas, 1794-1829*, Pinchon-Debroux et Vernin, Bruxelles, 38 vols.

#### America

- UNITED STATES** *United States Code*, 1940 edition, Government Printing Office, Washington, 4 vols. with Supplements.  
*Federal Code*, annotated, 1936, Bobbs-Merrill Co., Indianapolis, 13 vols.  
*Code of Federal Regulations of the United States of America Having General Applicability and Legal Effect in Force 1 June 1938*, Government Printing Office, Washington, 17 vols. with Supplements.
- States of the United States*
- Alabama *The Code of Alabama*, 1940, West Publishing Co., St. Paul, 10 vols.
- Arizona *Arizona Code*, 1939, annotated, Bobbs-Merrill Co., Indianapolis, 6 vols.
- Arkansas *A Digest of the Statutes of Arkansas*, 1937, by Walter L. POPE, Helms Printing Co., 2 vols.
- California *Deering's Codes and General Laws of the State of California*, 1937 (1941 new edition in course of publication), Bancroft-Whitney Co., San Francisco.
- Colorado *1935 Colorado Statutes Annotated*, Bradford-Robinson Printing Co., Denver, 5 vols.
- Connecticut *The General Statutes of Connecticut*, revision of 1930, The Wilson H. Lee Co., Orange and Newhaven, 2 vols. with Index and Supplements.

- Delaware *Revised Code of Delaware*, 1935, Star Publishing Co., Wilmington.
- Florida *Florida Statutes Annotated*, 1943, West Publishing Co., St. Paul, 7 vols.
- Georgia *Code of Georgia Annotated*, 1935, The Harrison Co., Atlanta, 34 vols.
- Idaho *Idaho Code*, 1932, annotated, Bobbs-Merrill Co., Indianapolis, 4 vols.
- Illinois *Illinois Revised Statutes*, 1941, Burdette Smith Co., Chicago, 1 vol.
- SMITH-HURD, Illinois, *Annotated Statutes*, Permanent Edition, 19-, West Publishing Co., St. Paul, 36 vols.
- Indiana *Baldwin's Indiana Statutes Annotated*, 1934, Banks-Baldwin Law Publishing Co., Cleveland, 1 vol.
- Annotated Indiana Statutes*, 1933, ed. by Harrison BURNS, Bobbs-Merrill Co., Indianapolis, 12 vols.
- Iowa *Code of Iowa*, 1939, published by State of Iowa, 1 vol.
- Kansas *General Statutes*, 1935, annotated, The Kansas State Printing Plant, Topeka, 1 vol.
- Kentucky *Kentucky Revised Statutes*, 1942, Kentucky Statute Revision Commission, 1 vol.
- Louisiana *General Statutes of the State of Louisiana*, 1939, by Benjamin Wall DART, Bobbs-Merrill Co., Indianapolis, 6 vols.
- Maine *The Revised Statutes of the State of Maine*, 1930, Kennebec Journal Print, Augusta, 1 vol.
- Maryland *The Annotated Code of the Public General Laws of Maryland*, 1939, ed. by Horace E. FLACK, The Lord Baltimore Press, 2 vols.
- Massachusetts *Tercentenary Edition of the General Laws of the Commonwealth of Massachusetts*, 1932, Wright and Potter Printing Co., Boston, 2 vols. and Index.
- Annotated Laws of Massachusetts*, 1932-, The Lawyers' Co-operative Publishing Co., Rochester, N.Y., 10 vols.
- Michigan *Michigan Statutes Annotated*, 1935, Callaghan and Co., Chicago, 27 vols.
- Minnesota *Minnesota Statutes*, 1941, published by the State of Minnesota, 2 vols.
- Mississippi *Mississippi Code of 1930*, annotated, The Harrison Co., Atlanta, 2 vols. with Supplement of 1938.
- Missouri *The Revised Statutes of Missouri*, 1939, Official Edition, 3 vols.
- Missouri Revised Statutes Annotated*, 1939, West Publishing Co., St. Paul, 29 vols.
- Montana *The Revised Codes of Montana of 1935*, State Publishing Co., Helena, Montana, 5 vols. with Supplement 1939.
- Nebraska *Compiled Statutes of Nebraska*, 1929, State of Nebraska, 1 vol. with 1941 Cumulative Supplement.
- Nevada *Nevada Compiled Laws*, 1929, Bender-Moss Co., San Francisco, 6 vols. with Supplement 1931-1941.
- New Hampshire *The Revised Laws of the State of New Hampshire*, 1942, Romford Press, Concord, 3 vols.
- New Jersey *Revised Statutes of New Jersey*, 1937, State of New Jersey, 5 vols.
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Aby. — Abyssinia; Afgh. — Afghanistan; Alb. — Albania; Alex. — Alexandretta; Ala. — Alabama; Alg. — Algeria; Arg. — Argentina; Ariz. — Arizona; Ark. — Arkansas; Ash. — Ashanti; Aus. — Austria; Austral. — Australia.

Bah. — Bahamas; Barb. — Barbados; Basque Prov. — Basque Provinces; Bech. — Bechuanaland; Bel. Con. — Belgian Congo; Bel. — Belgium; Ber. — Bermuda; Bhut. — Bhutan; Bol. — Bolivia; Bor. — Borneo; Braz. — Brazil; Br G. — British Guiana; Brun. — Brunei; Bug. — Buganda; Bulg. — Bulgaria.

Calif. — California; Camb. — Cambodia; Can. — Canada; Cata. — Catalonia; Ceyl. — Ceylon; Chin. — China; Col. — Colombia; Colo. — Colorado; Cook Is. — Cook Islands; C. R. — Costa Rica; Cur. — Curaçao; Cyp. — Cyprus; Cz. — Czechoslovakia.

Danz. — Danzig; Del. — Delaware; Den. — Denmark; Dom. — Dominican Republic.

E. Sam. — Eastern Samoa; Ec. — Ecuador; Eg. — Egypt; Est. — Estonia.

F. M. S. — Federated Malay States; Fin. — Finland; Fla. — Florida; Fr. — France; Fr. Eq. A. — French Equatorial Africa; Fr. W. A. — French West Africa; Fr. Z. — French Zone.

G. B. — Great Britain; G. C. — Gold Coast; G. & E. Is. — Gilbert and Ellice Islands; Ga. — Georgia; Ger. — Germany; Gib. — Gibraltar; Gr. — Greece; Gr.-Yug. Agr. — Greek-Yugoslav Agreement; Greenl. — Greenland; Guat. — Guatemala.

Hond. — Honduras; Hung. — Hungary.

Ice. — Iceland; Id. Prov. — Idrisi Province; Ill. — Illinois; Ind. — India; Inda. — Indiana; Ind.-Chin. — Indo-China; Ire. — Ireland; Is. (Jap. Mand.) — Islands Subject to Japanese Mandate; It. — Italy; It. Col. — Italian Colonies; It. E. A. — Italian East Africa.

Jam. — Jamaica; Jap. — Japan; J. D. — Jebel Druse; Joh. — Johore.

Kans. — Kansas; Ked. — Kedah; Kel. — Kelantan; Ken. — Kenya; Kor. — Korea; Kwan. — Kwantung; Ky. — Kentucky.

La. — Louisiana; Lat. — Latvia; Leb. — Lebanon; Lee. Is. — Leeward Islands; Lib. — Liberia; Liecht. — Liechtenstein; Lith. — Lithuania; Lux. — Luxemburg.

Mada. — Madagascar; Mal. — Malaya; Man. — Manitoba; Manch. — Manchukuo; Mass. — Massachusetts; Maur. — Mauritius; Md. — Maryland; Mex. — Mexico; Mich. — Michigan; Miss. — Mississippi; M. L. T. & B. — Mongol Leagues, Tribes and Banners; Mo. — Missouri; Mon. — Monaco; Mont. — Montana; Mor. — Morocco.

N. C. — North Carolina; N. D. — North Dakota; N. G. — New Guinea; N. H. — New Hebrides; N. R. — Northern Rhodesia; N. Y. — New York; N. Z. — New Zealand; N. Ire. — Northern Ireland; N. Mex. — New Mexico; Nebr. — Nebraska; Neg. Sem. — Negri Sembilan; Nep. — Nepal; Neth. — Netherlands; Neth. Ind. — Netherlands Indies; Nev. — Nevada; Newf. — Newfoundland; Nic. — Nicaragua; Nig. — Nigeria; Nor. — Norway; Norf. Is. — Norfolk Islands; Nyas. — Nyasaland.

O. M. — Outer Mongolia; Okla. — Oklahoma; Oreg. — Oregon.

P. R. — Puerto Rico; Pa. — Pennsylvania; Pah. — Pahang; Pal. — Palestine; Pan. — Panama; Para. — Paraguay; Per. — Perak; Ph. Is. — Philippine Islands; Pol. — Poland; Port. — Portugal; Port. Col. — Portuguese Colonies.

R. U. — Ruanda Urundi; Ross Dep. — Ross Dependency; Rum. — Rumania.

S. A. — South Africa; S. C. — South Carolina; S. D. — South Dakota; S. L. — Sierra Leone; S. R. — Southern Rhodesia; S. S. — Straits Settlements; S. W. A. — South West Africa; Saar T. — Saar Territory; Sal. — El Salvador; Sar. — Sarawak; Sau. Ar. — Saudi Arabia; Sen. — Senegal; Shan S. — Shan States; Siles. — Silesia; Somal. — Somaliland; Soud. — Soudan; Sp. — Spain; Sp. Col. — Spanish Colonies; Spitz. Spitzbergen; Sud. — Sudan; Sur. — Surinam; Swe. — Sweden; Switz. — Switzerland; Syr. — Syria; Syr. & Leb. — Syria and Lebanon.

Tang. — Tangier; Tanga. — Tanganyika; Tenn. — Tennessee; Tex. — Texas; Siam — Thailand; Tib. — Tibet; Togo. — Togoland; Transj. — Transjordan; Treng. — Trengganu; Tun. — Tunis; Turk. — Turkey.

U. M. S. — Unfederated Malay States; U. S. A. — United States of America; U.S.S.R. — Union of Soviet Socialist Republics; Ur. — Uruguay.

Va. — Virginia; Vat. C. — Vatican City; Ven. — Venezuela; V. Is. — Virgin Islands; Vt. — Vermont.

W. P. Is. — Western Pacific Islands; W. Sam. — Western Samoa; Wash. — Washington; Wyo. — Wyoming.

Yug. — Yugoslavia.

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